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ABSTRACT

This report is concerned with the future of private higher education, however, the recommendations it offers, are directed to the public interest in strengthening the whole higher educational system. The private sector of higher education is enormously valuable to American society and is an influential complement to the public sector. The financial problems of private higher education other than demographic factors and escalating costs--the tuition gap, the unfavorable provisions of federal student aid programs, the indiscriminate creation of new public institutions, and tax reform proposals inimical to private philanthropy--could all be solved or alleviated by quite modest changes of public policy. Each state should provide adequately funded grants having the effect of substantially narrowing, but not necessarily closing, the tuition gap. This report elaborates on one simple way to narrow the gap, namely, tuition offset grants for all students in private institutions. Other chapters cover correcting geographic inequities in public aid to the private sector; modifying present federal students aid programs; statewide planning; tax laws and tax administration; fund raising by public institutions; and other measures. Appendices include a review of comments on private colleges in recent reports on financing higher education; and implications of the 18-year old majority. Part two contains the conclusions and recommendations. (Author/PG)

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A NATIONAL POLICY FOR PRIVATE HIGHER EDUCATION

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The Report of a Task Force of the National Council of Independent Colleges and Universities

ASSOCIATION OF AMERICAN COLLEGES
WASHINGTON, D.C.
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Contents

Page

Preface v

Chapter

1. Introduction 1
2. Conclusion and Recommendations 5
3. The Case for Private Higher Education 9
4. Mounting Financial Distress of the Private Sector 15
5. Narrowing the Tuition Gap 19
6. Correcting Geographic Inequities in Public Aid to the Private Sector 25
7. Modifying Present Federal Student Aid Programs 27
8. Statewide Planning 29
9. Tax Laws and Tax Administration 31
10. Fund-raising by Public Institutions 37
11. Other Measures 39

Appendices

A. A Review of Comments on Private Colleges in Recent Reports on Financing Higher Education, *Howard R. Bowen* 51
B. Implications of Eighteen Year-Old Majority, *David J. Hanson* 57
C. The Presidents Speak: Opinions of Presidents of Private Colleges and Universities on Public Policy for Private High Education, *Howard R. Bowen* 69

PREFACE

This report is concerned with the future of private higher education. The recommendations it offers, however, are directed to the public interest in strengthening the whole higher educational system. It is the work of a task force appointed by the National Council of Independent Colleges and Universities. The report has been approved by the Board of Directors of that organization and endorsed by the Board of the Association of American Colleges. Thus it represents the considered judgment of the national organizations most closely identified with private higher education.

Private higher education includes more than 1500 colleges and universities located in all parts of the United States. They are non-profit institutions operating under private, that is non-governmental, sponsorship. Consequently, they are often described either as "private" or as "independent" institutions, and collectively as the private or independent sector of higher education. They are distinguished from "public" institutions, which operate under governmental sponsorship, and also from proprietary institutions which, though private, are profit-seeking enterprises.

The report was made possible by generous financial assistance from Lilly Endowment, Inc., and by the helpful cooperation of the Association of American Colleges.

The direction of the task force and the preparation of the report were under the able leadership of Dr Peggy Heim of Bucknell University (now Associate Director of the National Center for Higher Education Management Systems). The members of the task force, Dr Howard R. Bowen, who served as task force consultant, and Dr Elden T. Smith, Executive Secretary of the National Council of Independent Colleges and Universities, all deserve special recognition for their labors. Thanks are also due to the executives of state associations of private colleges for their advice and counsel, to President Charles H. Watts II and Dr Wendell I. Smith of Bucknell University for facilitating the study, and to many individuals who provided background information, especially Richard Tombaugh of the National Association of Student Financial Aid Administrators. Recognition should also be given to Howard E. Holcomb, Wendy T. Kirby and Betty Ford of the Association of American Colleges for their valued contribution and last, but far from least, to Alison Dagle and Pamela Bruch who assisted with the details and typing of early drafts of the report. Final organization and editing of the text was undertaken by F. L. Wormald, Vice President of AAC and editor of *Liberal Education* with the help of Jane Long. This indispensable technical service, of course, entailed no responsibility for the content of the report. The cover design is the work of Marti Patchel.

For the particular benefit of all those who may be concerned with the development of state programs of support for the private sector, a complementary report, prepared for NCICU by Professors William H. McFarlane, A. E. Dick Howard and Jay L. Chronister, is being published concurrently by AAC under the title *State Financial Measures Involving the Private Sector of Higher Education*.

Frederic W. Ness
President
Association of American Colleges

1

Introduction

American higher education has historically been conducted under two more or less distinct kinds of sponsorship. Throughout this report we shall perforce speak of "public" and "private" institutions and of the public and private sectors of the academic enterprise. In doing so we do not seek to emphasize differences. Both kinds of institutions have the same essential role: they are engaged in similar activities—instruction, research and community service. Both accept students from within and from outside the state in which they are located, though the mixture varies from institution to institution. Both receive funds, though in different proportions, from taxes, private gifts and student payments. Both kinds of institutions are public in the sense of meeting public needs and providing benefits to the public. They are complementary and interdependent. Together they constitute a system of higher education that is unsurpassed in its capacity to serve students of widely varying backgrounds and talents, in its ability to respond to a vast range of social needs, in its over-all performance and its peaks of excellence, in its fidelity to unfettered pursuit of individual development and the common weal.

The basic distinction between the two types of institutions lies simply in their sponsorship and in the variations of character and program that flow from differing sponsorship. Public institutions are underwritten by government, usually state or local government. Private institutions are sponsored by nongovernmental bodies and therefore are often referred to as "independent" institutions.

Higher education in this country originated primarily under private auspices. Though public support has a long history going back to the founding of Harvard in the seventeenth century, public colleges and universities became significant in numbers and enrollment only in the latter part of the nineteenth century. As late as 1950, enrollments were equally divided between private and public institutions. Since then, however, most of the growth has occurred in public institutions as the states have enlarged existing colleges and universities and created hundreds of new ones. Education in that sector has enjoyed large public subsidies which have enabled it to set its charges to students substantially lower than would be necessary to meet the actual cost of instruction. Such tuitions are far below those which private institutions must typically charge. Today, the private sector enrolls only about 24 per cent of the total student population (see

Table 1) and its share must be expected to decline still further. (The percentage, of course, varies widely among the several states.)

In recent years the financial position of private colleges and universities has been notably weakening. For a few institutions the situation is already becoming catastrophic; for most, including some of the most prestigious institutions, the future is precarious. Many thoughtful observers, believing that if the relative decline of the private sector is prolonged much further, it will be detrimental to higher education as a whole, view the prospect with dismay. The four commissions or task forces that have recently studied higher education in depth have all recognized the value of the private sector and expressed concern about its future.[1] Similarly, numerous earlier commissions and committees endorsed the concept of diversity and independence in higher education, and some of them recommended that the states should initiate or increase support for private institutions.[2] But for the most of those bodies public policy for the private sector was not a major concern and was treated peripherally.

Such lack of attention to the question of a public policy for private higher education is readily understandable. The very concept of privateness or independence invites the inference that the body politic has no responsibility for the private sector. Traditionally, the leaders of private higher education have themselves been happy to accept almost exclusive responsibility for the planning, the management, the social role and the future welfare of their institutions. They have tended to be wary of governmental intervention. Indeed the private sector may be regarded as making its distinctive contribution to the total endeavor precisely because it is relatively independent of government. It provides an indispensable counterweight to what might otherwise become a monolithic public system. So it is easy to assume that the health, welfare and survival of the private sector is none of the government's business and that no public policy for private higher education is either necessary or desirable.

The matter cannot, however, be disposed of so easily. Government cannot help having policies that affect private higher education in one way or another, even though they are not so intended. Private institutions are affected whenever a new public institution is established or an old one closed, whenever an educational program in a public institution is started or terminated, whenever public tuitions are raised or lowered, whenever public salary levels for faculty are adjusted, whenever certain sections of the tax law are amended. Moreover, government has a financial interest in the preservation of the private sector, which serves over 2,100,000 students at an estimated saving to the taxpayer of some 2.9 billion dollars a year.[3]

[1] Appendix A to this report contains a summary of the findings of these bodies.

[2] Carnegie Commission on Higher Education, *Priorities for Action: Final Report*, McGraw-Hill, New York, 1973, pp. 167, 174. That report contains an interesting and useful summary of the findings of the principal commissions and task forces, beginning with the President's Commission on Higher Education which reported in 1947.

[3] Assuming an average subsidy in state institutions of $1400 per student (See Chapter 3).

The time has in fact come when the American nation must decide whether it shall continue to enjoy the benefits of a dual system of higher education. If it is convinced that the private sector is essential to the well-being of the whole academy and of the larger society, it must be willing to adopt purposeful and appropriate *public policies* to ensure the survival of the dual system.

Governmental policies designed to sustain threatened private activities of social value have long been established in other areas. Government has provided direct or indirect support for the arts and humanities, for hospitals, nursing care and medical research, for airlines and shipping, for small farms and small businesses, to name a few obvious examples.

Public assistance to private higher education is consistent with our national tradition and, in fact, is being increasingly provided. Many states have already acknowledged a responsibility to independent colleges and universities by adopting programs of financial support. What is now needed is to extend and intensify those initial efforts in a manner that will assure the survival and health of a competitive private sector without either impairing the essential independence of private colleges and universities or damaging the public sector.

The mounting problems of private higher education have not yet reached the point of irreversibility. They are still surmountable. The means for dealing with them are at hand and well within the capacity of the nation. But without prompt and positive action the outlook is bleak. The purpose of this report is to suggest the measures that are needed to maintain a flourishing private component in a healthy and balanced system of higher education.

The report is brief and can be quickly read, but for the convenience of the reader who is concerned only with its conclusions and recommendations, they are brought together in Chapter 2. The reasoning that led to those conclusions and recommendations is set out in Chapters 3-11.

2

Conclusions and Recommendations

Private Higher Education
(Chapter 3)

The private sector of higher education is enormously valuable to American society and is an influential complement to the public sector. Policy-makers in both state and federal governments should give increasing attention to preserving and strengthening private higher education.

Financial Distress
(Chapter 4)

The financial problems of private higher education other than demographic factors and escalating costs—the tuition gap, the unfavorable provisions of federal student aid programs, the indiscriminate creation of new public institutions, and tax reform proposals inimical to private philanthropy—could all be solved or alleviated by quite modest changes of public policy. State and federal governments should take measures along the lines proposed in this report, which are consistent with the public interest and the autonomy of private institutions, to effect the necessary changes. The measures proposed are to be viewed as a series of inter-related programs, primarily at the state level but supplemented by the federal government. Any one of them would be helpful, but all are needed to provide the private sector with the substantial support it needs in order to achieve long-range stability.

Narrowing the Tuition Gap
(Chapter 5)

Each state should provide adequately funded grants having the effect of substantially narrowing, but not necessarily closing, the tuition gap.

This report elaborates on one simple, direct and practicable way to narrow the gap, namely, tuition offset grants for all students in private institutions. We believe this specific proposal is sound and should receive serious consideration in every state. We recognize, however, that it is not the only way, and so it is not formulated as a rigid recommendation.

Rather we recommend that each state find a way, consistent with its traditions and needs, to enlarge student choice by substantially narrowing the tuition gap. Other possibilities would be to extend the coverage of present state programs of assistance to needy students in private institutions or to extend present state scholarship programs so that they would include far more students and provide more adequate grants. Another way would be to modify various federal programs of student aid so that they would include more students and recognize differences in tuitions between public and private institutions (See Chapter 7). Still another way would be to give institutional grants to private institutions from state or federal funds or both. The important objective is not to adopt a particular scheme but effectively to narrow the tuition gap in one way or another.

Correcting Geographic Inequities
(Chapter 6)

The amount and types of aid to private institutions and the students attending them have varied greatly among the states, with resulting inequities based on accidents of geography. An equally serious problem is that state aid to students in private colleges has usually been confined within state boundaries. Federal legislation should be enacted to provide incentive grants to the states to encourage them to overcome geographic inequities by giving adequate aid to private colleges and by making provision for students who attend out-of-state institutions. The federal program should be flexible enough to permit the states to act in accordance with their traditions, constitutional restraints and local conditions.

Federal Student Aid Programs
(Chapter 7)

Federal programs of student aid are not well suited to the needs of private institutions and their students. The programs do not provide realistic amounts of money to help students meet the costs of attending private colleges and universities. The conditions are often too restrictive or the programs are underfunded. Federal BEOGs should be modified, for example, by adding an extra allowance to students for private tuition or a special cost-of-education supplement for private institutions. The funding of all federal student aid programs should be increased to provide a realistic number and amount of grants.

Statewide Planning
(Chapter 8)

A rational system of higher education, including both public and private sectors, can only be attained by careful planning. State educational planning

agencies should take into account the presence of private institutions, consult with them, when feasible make contracts with them for needed services, and otherwise avoid unnecessary duplication and wasteful competition. Private institutions should cooperate in statewide planning, but the actions of state planning agencies should respect the essential autonomy of both public and private institutions.

Taxation
(Chapter 9)

Federal and state income, inheritance and estate taxes should continue to provide strong incentives for philanthropic giving. These incentives should be strengthened, for example, by adopting the Pifer plan for increasing the exemptions available to lower-income taxpayers. Private colleges and universities should have the same tax exemptions as comparable public institutions.

Fund Raising by Public Institutions
(Chapter 10)

In the area of private giving as a source of support for higher education, new relationships and understandings between the public and the private sectors are needed. The private institutions should acknowledge that public colleges and universities may need private gifts for innovation and enrichment; the public sector should recognize that private institutions must enlarge their search for public funds, both on state and federal levels, in order to maintain their vitality.

Other Measures
(Chapter 11)

Present student loan programs are complex and ineffective. A coherent national system of long-term student loans should be established with adequate funding and moderate interest. It should *supplement* other forms of aid and not be viewed as a substitute for tuition grants or other aid programs.

To strengthen the academic quality of small, developing colleges and universities, which include among their ranks many institutions serving predominantly minority students, the federal program, Strengthening Developing Institutions, should be reauthorized.

The number of graduate fellowships and the level of funding for research should be increased. We support the recommendations of the 1974 report of the National Board on Graduate Education.

Many private institutions cannot obtain sufficient money from current funds for maintenance and depreciation reserves. Matching grants should be available to private institutions for replacement, remodeling and reconstruc-

tion of buildings and equipment. Bonding authority, available to private institutions in some states, should be widely adopted.

Lifelong or recurring education should be financed in a way that will enable both public and private institutions to meet these educational needs.

3

The Case for Private Higher Education

The case for a substantial body of strong private colleges and universities, though compelling, is not so widely understood as it ought to be. The private sector is not merely an ornament or a luxury—nice to have but readily dispensed with in a crisis. It is an important, even essential, part of the American system of higher education.

In making this case, there is no implication that private higher education as such is in any way superior to public higher education. No invidious comparisons are needed or intended. Both sectors serve important public purposes and both have the capacity for excellence in discharging their functions. The two are interdependent, complementary and mutually supportive. A special case must be made for private higher education simply because it is in jeopardy and because new public policies are needed to preserve the benefits accruing from the dual system.

Diversity

More than 1500 private colleges and universities are operating in the United States. They enroll more than 2,100,000 students. They are located in 49 of the 50 states. They range in size from a few hundred to more than 30,000 students. They vary in function from small liberal arts colleges and specialized professional schools to great universities with elaborate graduate and professional programs. Some emphasize occupational interest, others liberal studies. They range in clientele from those serving particular ethnic or religious groups or particular local areas to those serving a broad spectrum of the population. Most are of the latter type. They vary in location, some being rural, some suburban, some urban. They vary in their philosophy of education and in the nature of their educational impact. Some are four-year colleges and some two-year. They include institutions of great fame and influence as well as little-known institutions which serve specialized or local needs. Some cater to students of exceptional ability and some to those of more modest ability. Some are heavily engaged in research and public service, while others concentrate on instruction. Some are residential and some serve primarily commuting students. The degree of variety within the private sector is suggested by the data in Tables 2 and 3.

Diversity is necessary if the higher educational system is to be able to serve its many clienteles and purposes. In the words of Ralph Besse, an influential trustee of several private institutions:

> *. . . the student constituency to be served by higher education . . . includes men and women, old people and young people, rich people and poor people, many races, ethnic groups and non-ethnic groups, brilliant minds and below-average minds, and a range of interests, aptitudes, personal needs, ambitions and motivations as broad and varied as our exceedingly complex culture.*
>
> *The social needs which higher education must serve are equally varied, as fields of knowledge expand in depth and number, technological competition increases, world involvement accelerates, urban living alters our mores, and affluence impacts our total way of life.*
>
> *And thus the mere statement of the complex nature of students and of social needs is almost enough to demonstrate the requirement of both institutional and program diversity. Certainly no one institution or type of institution could be adequately designed to achieve optimum service and quality for such a variety of demands.*[1]

In the spirit of Mr Besse's comment, particular emphasis must be given to the unique role of the small private college. It typically offers a campus of human scale, rich community life, concern for the values of liberal learning, and attention to students as individual persons. Many small colleges, including those that are not well known, perform a highly valuable service in these respects. The nation would be ill served if such institutions were to disappear or were forced to change their mission substantially.

In general, private institutions of all types have included among their main objectives the development of the student's personality as an individual. This concern is reflected in the fact that private institutions of all types are on the average smaller than comparable public institutions. A comparison of the average enrollment of public and private institutions is shown in Table 4.

Checks and Balances

The private sector of higher education serves as a counterweight to the public sector and provides useful checks and balances. Its existence diffuses responsibility for higher education, which would otherwise be a sole prerogative of government. The very presence of private institutions is a forceful reminder that independent, non-political education is not an unattainable ideal. The private sector provides examples of alternative administrative modes and educational programs. It thus serves the public sector of higher education as well as society at large, and some of its strongest

[1] Ralph M. Besse, "The Case for Pluralism and Diversity in Higher Education" in *Higher Education, Human Resources and the National Economy*, Addresses and Discussion Papers from the Sixtieth Annual Meeting of the Association of American Colleges, 1974, p. 169

supporters are to be found among public institutions. The University of California, for example, is strengthened by the presence nearby of a Stanford. Similarly, most state and community colleges are influenced by the styles and traditions of neighboring private institutions. Conversely, of course, the private sector is influenced by the public sector.

Excellence

We raise here the question of quality because it affects deeply the future of our society. An admirable discussion of this issue is found in the previously cited paper by Ralph Besse.[2] As he points out, in the modern thrust for equality of opportunity in higher education quality has sometimes suffered. It might have suffered even worse without the protection of diversity. Under the banner of egalitarianism, a subtle attack has been launched against excellence in higher education. Of course, excellence which is available only to the wealthy cannot be defended, but excellence based on achievement can not only be defended but may in the long run be indispensable. It contributes to the preparation of outstanding leaders, to the sound development of our culture, to the maintenance of our competitive position in the world..

As Besse states, there is nothing inappropriate in a "diversity of the learning process which provides opportunity in one institution for average or sub-average intellects and opportunity in another for superior intellects. Almost all the progress of history is traceable to superior minds." This is true, he says, not only of science, "where brilliance is commonly recognized as an ingredient of creativity. It is equally true . . .in art, music, philosophy, literature and every other important category of social activity . . . . whatever value may be derived from the social leavening that comes from the less brilliant students and faculties mingling with the more brilliant students and faculties, it is more than offset in end result by a diversity which permits brilliant faculties to compound their effectiveness by teaching brilliant students." The private sector contributes substantially to such diversity.

Many private institutions are characterized by a traditional form of educational and intellectual excellence. This is true not only of the great research universities but also of numerous small colleges. Such institutions are a national resource of incalculable value. Their excellence is derived largely from the traditions and the influences (including small size and selectivity of personnel) associated with private control. This is not to deny that a high order of excellence may be achieved in the public sector, which would of course be absurd. Yet it is no accident that so many private institutions have achieved exceptional educational and intellectual quality.

The excellence achieved in the private sector and the flexibility derived from private control have enabled many private institutions to achieve educational leadership, to serve as standard-setters, and to be sources of innovation. The private sector has no monopoly on leadership of this kind, but it has often used the independence and flexibility that come with privateness to set the example of what a college or university should be like.

[2] *Op. cit.*, p. 170

The efforts of public institutions to keep up with their private competitors has been an important factor in the progress of the public sector.

Academic Freedom

Academic freedom consists in part of the right and duty of individual professors to seek and speak the truth. More broadly, it includes significant inner direction for colleges and universities as institutions. It means that the academic community should have a dominant voice—based on professional judgment—in deciding what to teach, how to teach, what academic standards to maintain, what lines of research and scholarship to pursue, what to publish and whom to employ as teachers. Academic freedom in this sense is always in jeopardy, but in the past decade it has been subject to unprecedented erosion from growing political influence and from increasing reliance on funds earmarked for purposes prescribed from outside.

Private institutions are by no means exempt from pressures threatening academic freedom. But their relative independence from government, the diversity of their governing boards, and in many cases their traditions tend to make them less susceptible to forces that could curb academic freedom than are public institutions. Even if this were not so, academic freedom is more likely to be upheld in a system of higher education with diversified control than in one under monolithic control.

Liberal Learning and Values

One of the important functions of the private sector has been, and still is, to keep alive the traditions of liberal learning and to emphasize sound personal values as one of the important outcomes of higher education. Again, private institutions have no monopoly on liberal learning or values; yet in some areas of the public sector there has been a marked tendency to stress manpower needs and vocational techniques. That liberal education with emphasis on values has survived and prospered in the public institutions is due in part to the persistent influence of private colleges and universities.

Relief to Taxpayers

The private sector educates annually over 2,100,000 students. If private colleges and universities were to disappear, the education of those students would be the responsibility of public higher education. The present average subsidy per student in the public sector is about $1400. Multiplying by 2,100,000 students yields an estimated additional annual cost to taxpayers of 2.9 billion dollars.[3] This amount represents only the operating costs and ignores capital costs.

[3]The actual cost would vary depending on whether one assumed that the state would simply take over the private institutions and operate them or that the private institutions would be closed and the students moved to existing state institutions. Interpreting this figure, it should be noted that, though it represents an additional cost to taxpayers it does not imply a change in social cost. Rather it would represent a shift in the burden of educating 2,100,000 students to taxpayers from students, their families and philanthropists.

Concluding Comment

The case for maintaining and strengthening the private sector of higher education is persuasive. This is not to assert that every single private institution is a Harvard, any more than every public institution is a Berkeley. If, however, one examines closely the private institutions of this country, one will find that overwhelmingly they are making significant contributions. Each in its own way serves its own particular clientele. Even the less well known private colleges have their particular missions, and to depreciate their contributions is to do a great disservice to higher education and to the nation. There are, of course, marginal institutions—mostly underfunded—some of which are unclear about their purposes, or under incompetent leadership, or the victims of misfortune. But the vast majority of private institutions have long served productively, and they deserve an honored and secure place in the American higher educational system.

Perhaps the most conclusive evidence of the value of private institutions is that 2,100,000 students are patronizing them when it costs the student on the average $1600, or 67 per cent, more than if would cost to attend a public institution.[4] But as the tuition gap widens, the number of students who can afford private higher education without financial aid is steadily declining.

CONCLUSION AND RECOMMENDATION

The private sector of higher education is enormously valuable to American society and is an influential complement to the public sector. Policy-makers in both state and federal governments should give increasing attention to preserving and strengthening private higher education.

[4]College Scholarship Service of the College Entrance Examination Board, *Student Expenses at Postsecondary Institutions, 1974-75*, New York, 1974, p. vi. Data for resident students: total expenses include tuition and fees, room and board, transportation and incidental expenses. The cost of attending the average public four-year college was $2400; the average private four-year college, $4039.

4

Mounting Financial Distress of the Private Sector

Private colleges and universities appear on the whole to have made substantial progress in most respects during the late 1950s and the 1960s. Around 1969, however, the tide seems to have turned and a time of rough sailing set in. The resulting financial distress has been fully documented by Hans Jenny and G. Richard Wynn,[1] and Earl F. Cheit,[2] and William W. Jellema.[3] Following the first shock of widespread deficits in 1969 and 1970, the private colleges and universities tightened their belts and in some cases raised more money; budgets generally were brought back into balance. This phase has been reported in new studies by Wynn[4] and Cheit.[5] But the new situation is described by Cheit as one of "fragile stability." He is by no means sanguine about the long-run outlook.[6]

Despite recent budgetary progress, the fundamental situation for hundreds of private colleges is deteriorating. It is difficult to document this fact because no timely periodic data on private higher education are available.[7]

[1] *The Golden Years*, College of Wooster, Wooster, Ohio, 1970

[2] *The New Depression in Higher Education*, McGraw-Hill, New York, 1971

[3] *The Red and the Black*, Association of American Colleges, Washington, D.C., 1971; *From Red to Black?* Jossey-Bass, San Francisco, 1973

[4] *At the Crossroads*, Center for the Study of Higher Education, University of Michigan, Ann Arbor, Michigan, April 1974

[5] *The New Depression in Higher Education—Two Years Later*, McGraw-Hill, New York, 1973

[6] Cheit, *op. cit.*, pp. 71-2

[7] The NCICU Task Force has recommended that a regular annual survey of a sample of private colleges and universities be instituted, with current data to be reported promptly. The purpose of the survey would be to keep a running record of the condition of private institutions with reference to admissions, finances and program.

Despite the lack of current hard data, however, an abundance of scattered evidence suggests quite clearly that the number of student applications is declining, that the need to help students finance their expenses is growing at a faster rate than tuition income, that in some cases enrollment is falling, that a steadily decreasing proportion of educational costs is being met from endowment (See Table 5), that plant maintenance is being postponed, and that, as Wynn points out, erosion in the quality of instruction may be occurring (See Table 6).

The most disquieting feature of the situation is the apparent weakness in student recruitment brought about, in large part, by the growing inability of students and their families to meet college costs. The decline in the number of applicants is disheartening, not only because students are the *raison d'être* of colleges, but also because the tuition payments they bring with them are, even more than in earlier years, the financial mainstay of almost all private institutions (Table 5).

The efforts of private institutions to communicate the precariousness of their situation have not been entirely successful. Many of the deficits experienced at the onset of the crisis have, as Cheit shows, been corrected by severe budgetary control and by strenuous efforts to raise money and recruit students. Most institutions are operating with seeming normality. Few wish to advertise their apprehensions lest they discourage students and donors and demoralize staff.

Yet most informed observers judge that the balance is delicate and that a wave of dire, perhaps irreversible, distress may be expected for hundreds of worthy institutions within the next five to ten years unless appropriate public measures are taken. Since 1970 fifty private colleges have closed their doors.[8] But actual demise of colleges is only the tip of the iceberg. What lies beneath the surface is still more serious. If the present trend continues, all but a few private institutions will be in grave peril.

The critical condition of the private sector is not due mainly to its own shortcomings. It has long served, and continues to serve, the nation well. Its current difficulties are due primarily to influences wholly beyond the control of the institutions.

In the first place, the declining birth rate is inevitably beginning to constrict the pool of available students. Secondly, the costs of higher education are being driven steeply upward by such forces as the general inflation and the particular cost effects of the knowledge explosion, an increasingly complex technology, more intricate and restrictive legal obligations, more demanding social philosophies and new levels of consumer expectations, while the service industry syndrome limits the ability of educational institutions to reduce unit costs by increasing the productivity of their work force.

These factors affect both public and private institutions, but private institutions are at a special disadvantage. Endowment and gift revenues, on

[8] See the results of a survey by the National Council of Independent Colleges and Universities. For other statistics see the National Commission on the Financing of Postsecondary Education, *Financing Postsecondary Education in the United States*, Government Printing Office, Washington, D.C., 1973, p. 196.

which they are far more heavily dependent than public institutions are inherently less responsive to inflation than public appropriations and cannot be expected to keep pace with the cost escalation. So, in the absence of large public subsidies, the private institutions have been thrown back on their only available source of substantially increased income: student charges. Tuition and fees charged by private institutions, starting from a higher base at the outset, have risen much more sharply than the corresponding charges of public institutions. Needless to say, this has gravely weakened the competitive position of the private sector. It is in the position of a thriving business that finds itself confronted with an intrinsically strong and heavily subsidized competitor which can sell its product at one fifth of the price.

In practical terms, the gap between the charges paid by students at public and at private institutions is even more serious for the private sector when measured not in ratios but in actual dollars. The private sector can survive a substantial price differential but not a tuition differential that averages more than $1500 per student per annum and is growing from year to year.

The difficulties of private institutions are compounded by other factors not of their own making but resulting from acts of public policy. Many private institutions find themselves having to compete not only with long-established public institutions but with new public institutions located in more or less close proximity to the private institutions without due consideration of the over-all supply and demand situation. The provisions of certain federal programs of the student aid make those programs less helpful to students attending private institutions than to students at public institutions and thus tend to draw students away from the private sector. Actual or threatened changes in tax laws and tax administration in directions unfavorable to private philanthropy inhibit the flow of gift income.

CONCLUSIONS AND RECOMMENDATIONS

The financial problems of private higher education other than demographic factors and escalating costs—the tuition gap, the unfavorable provisions of federal student aid programs, the indiscriminate creation of new public institutions, and tax reform proposals inimical to private philanthropy—could all be solved or alleviated by quite modest changes of public policy. State and federal governments should take measures along the lines proposed in this report, which are consistent with the public interest and the autonomy of private institutions, to effect the necessary changes. The measures proposed are to be viewed as a series of inter-related programs, primarily at the state level but supplemented by the federal government. Any one of them would be helpful, but all are needed to provide the private sector with the substantial support it needs in order to achieve long-range stability.

5

Narrowing the Tuition Gap

The tuition gap may be looked at in two ways: (1) as a ratio between public and private tuitions[1] or (2) as a dollar difference between the two.

The ratio between average tuitions at all private institutions combined and at all public institutions was about three to one in 1927-28 and remained about the same until 1951-52. Thereafter, it rose steadily to nearly five to one by 1971-72 and since then has stayed at about this level.[2] Such a change in the relationship between private and public tuitions could not fail to reduce the range of student choice and impair the competitive position of private institutions. But the adverse change in the ratio is not so decisive as the widening gap in absolute dollar figures. It is the gap in the actual amount families must pay that influences decisions.

Average tuitions and fees in all private and all public institutions and the dollar gap between them, for selected years, are shown in Table 7. From these figures one observes: (1) that tuitions have risen in both sectors; (2) that the rise has been more rapid in the private sector; (3) that in recent years the *rate* of rise has not been very different in the two sectors and so the ratios have not changed very much; and (4) that despite the fairly constant ratios, the absolute dollar gap has continued to widen.

The goal of a program for strengthening the position of the private colleges must be to narrow in some way the dollar gap between private and public tuitions and fees. On the assumption that tuitions in public institutions will continue to be much lower than those in private institutions (an assumption accepted by the sponsors of this report),[3] the options are as follows:

1. To provide students at private colleges with grants which would at least partly offset the tuition gap

[1] The term tuition as used here includes mandatory fees.

[2] See Carnegie Commission on Higher Education, *The Capitol and the Campus*, McGraw-Hill, New York, 1971, pp. 77-79, and American Council on Education, *A Fact Book on Higher Education*, Third Issue, 1973, pp. 155-57. In interpreting the ratio, it should be noted that tuitions are gross, not net after student aid.

[3] It is recognized that tuitions in public institutions may continue to rise, as they have been doing for the past several years. But it is assumed that the dollar gap between private and public tuitions will in any case continue to be sizeable and that narrowing of this gap is essential to the vigor and survival of private higher education.

2. To provide aid to students in general, whether attending public or private colleges, with the grants adjusted to the higher costs of attendance at private institutions
3. To provide private colleges with grants, or payments for services, which would enable them to slow up or reverse the steady increase in tuitions
4. Some combination of the foregoing options

There are many possible variations on these themes. Grants to students could be awarded on any of a multitude of formulas and subject to a wide variety of conditions and coverages. Grants to institutions could likewise be awarded in various forms and with diverse conditions attached. Moreover, the grants to students or institutions might be made by the states, by the federal government, or by both.[4]

If the grants are to narrow the tuition gap, however, they must *either* be given exclusively to private institutions and/or their students, *or* if not exclusive, be relatively large in amount (or accompanied by supplementary grants) for private institutions or their students. Obviously, if the grants were available equally to both public and private institutions, or equally to students in either type of institution, then the tuition gap would not be narrowed and the competitive position of the private institutions would not be strengthened.

Another important condition is that a program to assist private institutions should not result in increased public control of those institutions. For that reason, if grants to institutions are to be made by the states or by the federal government, such grants should not carry restrictions or conditions that would be the entering wedge for bringing private institutions into the public sector. Because grants to institutions entail greater danger of eroding the independence of the private sector, grants to students are generally to be preferred. Institutional grants having appropriate safeguards, however, should by no means be ruled out. Several states have demonstrated that they can provide support for private higher education without imposing undesirable controls.

At least 35 states have already acted in some fashion to assist private colleges or their students. The programs are quite varied in their provisions and in the degree of their funding. Some provide aid to institutions, some to students and some to both.

In the few states that provide institutional aid, the programs are based on factors such as total number of students, number of students in various programs or various classifications, number of degrees awarded, specific services performed that are deemed to be of special value to the state, or some combination of these. Institutional aid is also provided indirectly in some states by allowing private institutions to issue tax-exempt bonds for construction of buildings.

[4]Our recommendation, outlined later in this and in the next chapter, is that the grants be made by the states, with federal incentive grants to the states to achieve a minimum level of geographical uniformity.

Student aid under the various state programs also takes many forms. It includes grants based solely on need, grants based primarily on scholarship with amounts adjusted to need, grants based on scholarship with no means test, and flat-rate grants with neither a scholarship nor a means test. Where grants are based on need, the concept of need may be broad or narrow. In some cases, grants are available only to students in private colleges, in other cases to students in both public and private institutions. In the latter case, the grants vary widely in the amount of differential assistance they provide to students in private institutions.

Few of the programs, whether in the form of institutional grants or student grants, have the effect of substantially narrowing the tuition gap for large numbers of students. Few states have significant or well-funded programs of institutional aid. In many of the states providing grants for students, the programs apply only to students in the lowest income brackets or to students of exceptional ability. Such grants serve important purposes and should be continued, but they leave out the large numbers of low-to-middle-income students and the great bulk of worthy students of medium-to-high academic ability. These are the very students who face rising financial barriers to attending private colleges and universities and without whom the private institutions will be in jeopardy.

There are many possible ways of improving the present situation. We see no need to advocate a single uniform program for the whole country. Differences in local conditions, traditions, constitutional provisions and experience all suggest that diversity may be both desirable and inevitable. The essential need is to provide adequate funding which will either assist significantly a broad spectrum of students in private colleges and universities or substantially augment the educational funds of private institutions.

In our judgment, a program to be of maximum effectiveness in narrowing the tuition gap should have the following characteristics:

1. The grants would be made by the states though part of the funds would come from federal incentive grants to the states.[5]
2. The grants would be made in a form expressly designed to narrow the tuition gap between private and public institutions. They might be paid directly to students, to institutions or to both. If grants to students were available in both sectors they would provide a differential amount for students in the private sector to offset the higher private tuition.
3. A state program would be made up of any one or a combination of the following options: (a) a plan to provide private colleges with institutional grants and/or payments for services; (b) a plan to provide aid to students attending either public or private colleges, with the grants varying according to the costs at the college of the students' choice; (c) a plan to provide tuition offset grants to all students at private colleges.

[5]The question of whether the state or the federal government should be the grantor is further examined in the next chapter.

4. If tuition offset grants were selected, they would be made available to all or most of the qualified students in private institutions without restrictive conditions as to financial means or scholarly attainment.
5. Similar grants would be available for graduate and professional students in private colleges and universities.
6. The amount of the tuition offset grants would be calculated to narrow, but not eliminate, the tuition gap. The formula in each state would be geared to the subsidy provided from public funds for students in public institutions. Three possible formulas are illustrated in Table 8.

   These possible formulas would have the advantage that the amount of the tuition offset grant would be tied to magnitudes that are under control of the state government, namely, average cost of instruction and average tuitions in public institutions. *No item in the formula would be under the control of the private institutions that would benefit from the grants.* But, as public institutions changed their expenditures or their charges, the amount of the tuition offset grant would be correspondingly altered.
7. The tuition offset grant program would not replace existing programs of student aid or institutional aid. In computing student financial needs under existing student aid programs, the tuition offset grant would be deducted from the cost to the student in a private institution. For example, a tuition offset of $800 would reduce a $4,000 total cost to the private college student to $3,200 for the purpose of determining student aid.

Assuming 2.1 million private college students, the *gross* cost of the proposed tuition offset program would be about $840 million if the grants averaged $400, about $1.7 billion if the grants averaged $800, about $2.5 billion if they averaged $1200. Of course, from this gross amount would be subtracted reductions in other forms of student aid. The net cost, therefore, would be considerably less than the gross figures.[6] Moreover, the *incremental* cost would be still less, because some states already have portions of this over-all program in effect, though in most cases with inadequate funding. The cost would be borne partly by the federal government and partly by the state governments (See Chapter 6).

To sum up, the proposal is that each state find a way consistent with its laws, traditions and needs to enlarge student choice by narrowing the tuition gap. As we have mentioned, a number of states already have some form of institutional aid or student aid. We have elaborated on one other possible form—tuition offset grants for all students in private institutions. These would complement existing programs in states that have them and would form part of the total program to be developed in states that are just beginning to move toward aid to the private sector. We are not dogmatic about the mix of programs; we believe each state must build the program that

[6]The net cost would be influenced by the number of aid recipients in private institutions and the nature of the federal and state aid programs—more specifically, the formulas used in calculating aid and the levels of funding.

will best fit its needs. The important objective is to narrow the spread between public and private tuitions and thereby ensure the greatest possible freedom of choice for students.

A further word is in order regarding our recommendation that tuition offset grants should be available to qualified students in private institutions without restrictive conditions as to financial means or scholarly attainment.

We favor avoiding means tests for both philosophical and administrative reasons. No means tests are imposed on students who benefit from subsidized education in state institutions, and the same principle should be applied to tuition offset grants to private college students. Moreover, the grants should be helpful to people in the middle-income brackets who have usually been excluded from most programs based on need. Means tests are inherently difficult to administer fairly. The difficulty is being compounded as increasing numbers of eighteen-year-olds are claiming adult status.[7]

There is also precedent for elimination of the means test. Some states have already adopted programs, either of grants to students or grants to institutions, which involve no financial tests.[8] An example of a state aid program that involves no means test is that of Georgia. The state pays a flat grant of $400 (to be increased to $600) to all Georgia students attending private colleges in that state. The disbursement is made to the institutions under the condition that the funds will be credited to the tuition accounts of the students. Similarly, in New York grants are made to private institutions on the basis of the number of degrees awarded.

While we favor avoiding means tests for tuition offset grants, we do not wish to be doctrinaire on the subject. We recognize that some states might prefer to exclude from tuition offset grants persons with adequate financial resources. Moreover, we are taking no position on means tests for other student aid programs, either state or federal. We are well aware that student aid based on need, despite its drawbacks, economizes in tax dollars.

In the same spirit, we do not mean to be dogmatic in our recommendation against reasonable scholarly requirements for tuition offset grants. Most states, however, rightly impose only minimal scholarship standards on those admitted to the public system of higher education, and the same principle might apply to tuition offset grants to students in private institutions.

Existing programs of student aid employing means tests or scholarship criteria have the important purposes of giving special assistance to students of very low income and disadvantaged backgrounds or of recognizing and encouraging students of exceptional scholarly ability. Such programs should be continued and even enlarged. The proposed tuition offset program would have a different purpose. Its objective would be to enable the rank and file of students of varying resources and varying scholarly ability to choose private institutions, thus widening their range of opportunities. The tuition offset

[7] See Appendix B for a discussion of the eighteen-year-old majority.

[8] For a detailed review of state legislation, see William H. McFarlane *et al.*, *State Financial Measures Involving the Private Sector of Higher Education: A Report to the National Council of Independent Colleges and Universities*, Association of American Colleges, Washington, D.C., 1974.

program would therefore be a complement to programs such as state scholarships and special aid to needy students, not a substitute for them.

CONCLUSIONS AND RECOMMENDATIONS

Each state should provide adequately funded grants having the effect of substantially narrowing, but not necessarily closing, the tuition gap.

This report elaborates on one simple, direct and practicable way to narrow the gap, namely, tuition offset grants for all students in private institutions. We believe this specific proposal is sound and should receive serious consideration in every state. We recognize, however, that it is not the only way, and so it is not formulated as a rigid recommendation.

Rather we recommend that each state find a way, consistent with its traditions and needs, to enlarge student choices by substantially narrowing the tuition gap. Other possibilities would be to extend the coverage of present state programs of assistance to needy students in private institutions or to extend present state scholarship programs so that they would include far more students and provide more adequate grants. Another way would be to modify various federal programs of student aid so that they would include more students and recognize differences in tuitions between public and private institutions (See Chapter 7). Still another way would be to give institutional grants to private institutions from state or federal funds or both. The important objective is not to adopt a particular scheme but effectively to narrow the tuition gap in one way or another.

6

Correcting Geographic Inequities in Public Aid to the Private Sector

Public aid to private higher education has up to now been primarily a function of state governments. As a result, the system of aid has been inequitable among geographic areas. Programs in states now giving aid differ widely in their provisions and level of funding, and some states have no programs at all. The amount of aid available to particular institutions or particular students is, therefore, very much a matter of geographic accident.

In addition to the wide variation in benefits, most state programs are confined within the states' own boundaries. They are limited to students who are state residents and who attend in-state institutions. Many students attend, or wish to attend, private colleges outside their home states, and many private institutions draw heavily on students from out of state. For example, some private institutions are regional or national in character and enroll as many as ninety per cent out-of-state students. The free flow of students across state lines is desirable to enlarge student choices and to overcome provincialism. A system of aid which restricts this interchange of students impairs student freedom of choice.

A sound system of tuition grants designed to meet the need and to treat persons and institutions equitably should not be restrictive as to residence of students or location of institutions. This goal calls for a state-federal partnership to provide incentives and to help compensate for differences in state resources. Such a partnership must be achieved by retaining the well-recognized responsibility of state governments for higher education and at the same time acknowledging the need for a solution combining state responsibility with federal aid to promote reasonable geographic equity and mobility.

If the states are to be the primary source of tuition offset grants, two possibilities exist:

1. To pay tuition offset grants to state residents regardless of where the private institutions they attend are located. (An example of this was the initial Pennsylvania plan, which gave equal aid to needy students attending both in-state and out-of-state institutions.)

2. To pay tuition offset grants to students attending in-state private institutions regardless of the states in which they reside. (For example, Maryland pays in-state private institutions a capitation grant for each student without regard to the residence of the student.)

The first of these alternatives can be supported on the logic that it would assist those institutions, wherever located, that relieve the state of part of its educational burden. The second can be advocated on the grounds that it would sidestep the increasingly complex problem of defining residence and would be consistent with the principle that state governments should be primarily responsible for institutions of higher education. On grounds of political acceptability, the first alternative appears preferable, but either would meet the problem.[1]

To induce the states to accept either alternative, federal incentive grants may be needed. For example, the federal government might supply some percentage (say 25 per cent) of the funds needed to finance a tuition offset program provided the program included grants to resident students attending private institutions located in other states.

Another variation might be for the federal government to finance a portion of all tuition offset grants, but a larger fraction for students attending out-of-state institutions than for those attending in-state institutions: for example, forty per cent for students going out of state and twenty per cent for those remaining in state. In such a case, federal assistance might be thought of as a package: no aid for one type of student without the other.

A combined state and federal solution would seem to be preferable to a wholly federal solution in view of the fact that many states have already taken the initiative in providing tuition grants and are beginning to assume responsibility for the health of the private sector. The states are also in a position to take account of regional differences in the needs and aspirations of the private sector. Thus a strong case can be made for continuing state responsibility. But to achieve a truly equitable system of tuition grants, federal partnership in funding is essential.

CONCLUSIONS AND RECOMMENDATIONS

The amount and types of aid to private institutions and the students attending them have varied greatly among the states, with resulting inequities based on accidents of geography. An equally serious problem is that state aid to students in private colleges has usually been confined within state boundaries. Federal legislation should be enacted to provide incentive grants to the states to encourage them to overcome geographic inequities by giving adequate aid to private colleges and by making provision for students who attend out-of-state institutions. The federal program should be flexible enough to permit the states to act in accordance with their traditions, constitutional restraints and local conditions.

[1] If the first alternative were selected, federal legislation should define residence in order to achieve consistency among the states.

7

Modifying Present Federal Student Aid Programs

Federal student aid includes primarily the following four programs: (1) Basic Educational Opportunity Grants (BEOGs), (2) Supplemental Educational Opportunity Grants (SEOGs), (3) work-study grants and (4) various loan programs. The BEOGs are considered the basic grants and are administered directly by the federal government. The other programs are supplementary and are campus-based for purposes of administration.

As an alternative or as an addition to the tuition offset grants proposed in Chapter 5, present federal student aid programs might be modified so that they would partially bridge the gap between public and private tuitions.

While federal student aid programs have been helpful, and we are grateful for them, they do not adequately meet the needs of students attending private colleges. The long-standing campus-based programs, such as SEOG and work-study are well designed for the private sector, but both have been underfinanced. The Education Amendments of 1972 expanded considerably the pool of students eligible under these programs without a comparable increase in funding. The result has been an actual decrease in the amount of money available per student. The funding of existing campus-based student aid should be substantially increased.

So long, however, as funding of those programs remains at its present low level, the private sector must depend at least in part on the Basic Educational Opportunity Grants (BEOGs). But the BEOGs offer limited assistance to students in private institutions because, under this program too, payments are too low. The maximum annual amount allowable under the law is $1400. In fact, because of inadequate funding, the actual ceiling was set by the U.S. Office of Education at $452 for 1973-74 and $1050 for 1974-75. Whether one considers the legal or the actual limit, it is obvious that the grants will go further in financing a student's education at public institutions, where the tuition is commonly $300 to $800 than at private institutions with tuitions of $1500 to $3000.

Under BEOG payment schedules for 1974-75, for example, the student with maximum grant eligibility would have about $3000 of unmet need if he attended the average private four-year institution as against $1000 of unmet need if he attended the average public four-year institution. The difference of

$2000 a year is important to the student, especially over a period of four years. Further, if a private institution seeks to overcome the differential, it must find an additional $2000 of student aid each year the student is enrolled.

The problem is exacerbated by the fact that little or no aid is available to families with incomes above $9000. Many such families need considerable aid if their children are to attend private institutions. Private colleges and universities have traditionally supplied large amounts of financial aid from their operating funds so that students drawn from low- and middle-income families may have an opportunity to attend the same institutions as those who can afford the requisite fees. As Table 9 demonstrates, private institutions have sought to meet their social responsibilities by maintaining an open door for the education of all students, but these efforts have required great financial sacrifice on the part of the institutions.

Federal BEOGs should be modified to meet the needs of students in private institutions. One way would be simply to add an extra allowance for private tuition which would have the effect of partially offsetting the tuition gap. Another way would be to provide a special cost-of-education supplement to the institution for students qualifying for aid and attending private institutions.[1] Still a third way might separate student aid into distinct tuition and "other expenses" components as was done in the eminently successful GI Bill of 1944.

Private institutions are also at a disadvantage in federal student aid programs related to Viet Nam veterans, Social Security, and ROTC. These programs, unlike the 1944 GI Bill, make little or no allowance for recipients who wish to attend private institutions. A given allowance obviously goes further in low-tuition public institutions than in high-tuition private institutions. As a result, most students under these programs have been effectively excluded from the private sector.

What is needed in these federal programs is some form of payment to compensate in part for the heavy subsidization of public tuitions.

CONCLUSIONS AND RECOMMENDATIONS

Federal programs of student aid are not well suited to the needs of private institutions and their students. The programs do not provide realistic amounts of money to help students meet the costs of attending private colleges and universities. The conditions are often too restrictive or the programs are underfunded. Federal BEOGs should be modified, for example, by adding an extra allowance to students for private tuition or a special cost-of-education supplement for private institutions. The funding of all federal student aid programs should be increased to provide a realistic number and amount of grants.

[1]State programs of student aid could also include similar differential provisions for assistance to students in private institutions.

8

Statewide Planning

A serious problem for many private institutions has been the competition of newly established state institutions or branch campuses. Whereas a private college or university may formerly have been preeminent in its area, now it may forced to compete with a new campus of a state university, a new state college or a new community college. There can be no just cause of complaint if the establishment of the new institution has resulted from careful and objective study of the over-all educational needs of the area and of the resources available to meet them. But in the establishment of new campuses there has on the whole been little consultation on the part of public agencies with affected private institutions and little effort to fit them into a comprehensive and coherent system. The problem may be water over the dam in those states that have already completed their great surge of public institution building. But in other states, where the establishment of new public institutions got a late start, the process of building new public colleges continues to present an often gratuitous though never inexpensive threat to private institutions.

But the building of new public campuses is not the only problem. Duplicative programs are often initiated by public institutions, and tacitly or formally approved by state planning agencies, without adequate consideration of the consequences for private institutions.

It has become increasingly evident that the time for unbridled competition and inadequately planned expansion in higher education has long since passed. The Education Amendments of 1972 authorized the creation of statewide planning agencies, which have since come to be known as "1202 Commissions." The legislation mandates the participation on such commissions of representatives of both the public and the private sectors of higher education as well as the general public. As of July 1974, 48 states had established 1202 Commissions or designated existing bodies to perform their function of statewide planning. Obviously, the legislation is not binding on independent colleges and universities but it is vital to their welfare that they participate fully in the planning process.

There are many imaginative ways in which a state can utilize effectively the resources of the private sector. For example, in Illinois two or more

private colleges are providing, under contractual arrangement, educational services in the arts and sciences for local community colleges. The provision of student grants, as described elsewhere in this report, can encourage enrollment in independent colleges at substantial savings to the taxpayer. Private universities in a number of states provide professional training in dentistry and medicine under contracts with those states. In several states private colleges are paid for services rendered to the citizens of the states.

The hazards of loss of autonomy and submission to state regulation are recognized, but a balance can be achieved which will assure the essential independence of private institutions, yet will permit their participation in rational planning to the general benefit of both public and private higher education and the society they serve.

CONCLUSIONS AND RECOMMENDATIONS

A rational system of higher education, including both public and private sectors, can only be attained by careful planning. State educational planning agencies should take into account the presence of private institutions, consult with them, when feasible make contracts with them for needed services, and otherwise avoid unnecessary duplication and wasteful competition. Private institutions should cooperate in statewide planning, but the actions of state planning agencies should respect the essential autonomy of both public and private institutions.

9

Tax Laws and Tax Administration

Two tax issues are of concern to institutions of higher education. One relates to the taxes they are asked to pay, the other to their ability to obtain private gifts and donations.

To varying degrees, private institutions of higher education are granted exemption from property taxes, sales taxes and other state and local taxes in return for their services to the public. The extent of such exemptions varies among the several states. In recent decades a tendency to restrict the tax exempt status of educational institutions has set in. As a matter of policy, private colleges and universities should be exempt from property, sales and other state and local taxes on the same basis as public institutions.[1] This exemption should extend to all property used for educational and related purposes.

The second tax issue is by far the more important of the two. Private giving plays a major role in financing the expenditures of private institutions (Table 10). In the private sector, gifts not only help finance new construction, academic innovation, research and scholarships, but are essential to the operation of the institutions. In the case of public institutions, gifts and contributions provide supplemental funds for innovation and enrichment of programs—funds which would not generally be available from state appropriations. Both private and public institutions need more private funds than they are currently receiving. Neither can afford any diminution in this form of support.

The health and strength of private higher education is especially dependent on philanthropy. Without substantial private giving the independence of the private sector—its independence of government and of the market—cannot be sustained.

Philanthropic giving supplies on the average about 25 per cent of the current educational funds of private institutions of higher education (See Tables 5 and 11). Part of this is in the form of current gifts applied to operations and part is in the form of income on endowment resulting from

[1]Voluntary contributions for public services such as fire and police protection may be in order, but political pressure to make such contributions should not continue to be intensified as it has been in many jurisdictions.

past gifts. The figures in Table 11 show the relative importance of philanthropic gifts past and present in higher educational budgets.

Unfortunately, philanthropic giving to private institutions, though increasing absolutely, has been declining as a percentage of total educational funds, as shown in Table 12. This relative decline must be halted and reversed if the private sector of higher education is to retain its independence and is to provide the diversity and leadership that is its social function. But just at the time when philanthropy is called upon for giving on a larger scale, proposals are being made to weaken the tax incentives for giving.

Three arguments are advanced for reducing or eliminating these tax incentives. One is that philanthropy is simply a consumer expenditure. To give to a college or hospital is no different from buying a new automobile or giving one's son an allowance, and no tax concession is called for. Another argument is that a charitable deduction under the income and estate taxes represents the use of public money (that would otherwise be collected in taxes) at private discretion and without appropriation by proper legislative authority. Professor Stanley S. Surrey, who has been a leader in efforts to broaden the base of the income tax, refers to these deductions as "tax expenditures"[2] and argues that they should be replaced by publicly appropriated funds. A third argument sometimes advanced is that the present system of deductions provides more benefit to those in the higher tax brackets than to those in low- and middle-income groups and is therefore discriminatory.

The argument for maintaining and strengthening tax incentives for philanthropy is that private giving is on the whole meeting needs that would otherwise have to be financed through taxes and should therefore be given tax concessions.[3] This view is further supported by the fact that there are social advantages in a pluralism that allows some funds to be spent for public purposes, such as higher education, at the discretion of individuals rather than being gathered up and spent by government.

Private philanthropic associations have long been accepted as an appropriate way of doing things in our pluralistic society. They were observed by de Tocqueville to be a common feature of American society in the early 1800s. The debate on the Revenue Act of 1917 made clear that the charitable deduction reflected a desire to protect the income of philanthropic organizations and, in particular, the income of educational institutions.[4]

[2]"Federal Income Tax Reforms: The Varied Approaches Necessary to Replace Tax Expenditures with Direct Governmental Assistance," *Harvard Law Review*, December 1970, pp. 352-408

[3]For a more detailed discussion of the tax issues relating to philanthropy see Association of American Universities, *Tax Reform and the Crisis of Financing Higher Education*, Washington, D.C., May 1973.

[4]A *Washington Post* editorial of the time stated, "This country cannot abandon or impoverish the great structure of private charity and education that has been one of the most notable achievements of American civilization."—*The Washington Post*, August 25, 1917, as quoted in 55 Congressional Record, 6728 (1917).

Congress reaffirmed the propriety of the charitable deduction in 1938 by stating, "The Government is compensated for its loss of revenue by its relief from financial burdens which would otherwise have to be met by appropriations from public funds."[5] In 1969 Congress again endorsed the basic principle of the charitable deduction. It increased the thirty per cent limitation on contributions to fifty per cent in order to strengthen the incentive for taxpayers' charitable contributions.[6]

In addition to meeting needs that would otherwise have to be financed through taxes, there are other social advantages in a pluralism both of control and of financing. A multiplicity of financing sources diffuses actual and potential power and encourages diversity, individuality and individual initiative. Terry Sanford noted that "a conscientious government is somewhat restrained in initiating new programs."[7] Society must often depend upon private philanthropy to test new ideas for their public value. As others have observed, the helping hand of government, even though the help is only monetary, may turn our lively pluralistic society into deadly uniformity.[8] This trend may have already surfaced in Sweden where, good as public education is, "there are grumbles that uniformity and equality have replaced individuality. Everything—curriculum, staffing, the quality of school meals—is set by the Government."[9]

Those who propose the elimination of tax incentives for the charitable deduction generally propose as a substitute governmental grants or matching grants. They assume that the system would produce about the same level of support for charity as the present indirect system, that it would be constitutional, and that as a policy matter the new system would be preferable to current policy.[10] They tend to concede that any non-tax substitute must assure educational institutions of support equal to "that

[5]House of Representatives, Report No. 1860, 75th Congress, 3rd Session, p. 19 (1938)

[6]Staff of the Joint Committee on Internal Revenue Taxation, *General Explanation of the Tax Reform Act of 1969*, pp. 75, 77-78 (1970). On the other hand, the bill retained the thirty per cent limitation, with some exceptions, on gifts of appreciated property on grounds that it was sometimes possible for the taxpayer to realize a greater after-tax profit by making a gift of appreciated property than by selling it, paying tax on the gain and keeping the proceeds.

[7]Terry Sanford, *The Luxury of Doing Good*, Address to the 1972 Business Professions and Trades Dinner, National Conference of Christians and Jews, Chicago, Illinois, November 29, 1972

[8]Judge Friendly, "The Dartmouth College Case and the Public-Private Penumbra," 12 *Texas Quarterly* (2nd Supplement) 1969, p. 30

[9]Sanford, *op. cit.*

[10]Association of American Universities, *op. cit.*, p. 13

which they can reasonably anticipate from the present tax expenditure system."[11]

Their conclusion that a system of governmental grants is preferable to the present system of tax incentives for private giving rests on questionable assumptions. As noted by Professor Boris Bittker of the Yale Law School, "it would be difficult to devise a formula for matching grants that would produce, even in the aggregate, the same amount of revenue that charities now owe to the tax deduction, and it is almost inconceivable that this could be done for particular charities or even categories of charities."[12] Moreover, as Professor Bittker observed, there may be insuperable constitutional obstacles to the inclusion of religious organizations in any grant system.[13]

As critics propose reforms, the observer should keep in mind the structure of private giving. Colleges and universities depend heavily upon the large gift. Although gifts of $5000 and over accounted for only about five per cent of the number of transactions in 1970-71, they produced about 75 per cent of the amount of voluntary support.[14]

The tax provisions which help generate the large gifts are often those which also generate the greatest criticism and the most vocal proposals for reform. Attacks are being mounted on three major provisions of current tax law:

(1) the deduction for income tax purposes of charitable contributions of individuals and corporations,
(2) the ability to deduct the fair market value of appreciated securities and real estate donated to charity,
(3) the unlimited estate tax deduction for charitable gifts.

These three provisions are critical to maintaining the flow of private contributions to institutions of higher education.[15]

Although large gifts are the mainstay of voluntary support to private colleges and universities, there are great advantages to broadening the base.

[11]Paul R. McDaniel, "Alternatives to Utilization of the Federal Income Tax System to Meet Social Problems," 11 *Boston College Industry and Commercial Law Review*, 1970, p. 880

[12]Boris Bittker, "Charitable Contributions: Tax Deductions or Matching Grants," 28 *Tax Law Review*, 1972, pp. 37, 42. An example of a proposed formula is given in McDaniel, *op. cit.*, pp. 80-82 and in McDaniel "Federal Matching Grants for Charitable Contributions: A Substitute for the Incentive Tax Deduction," 27 *Tax Law Review*, 1972, pp. 396-407 and in D. B. Wolkoff, "Proposal for a Radical Alternative to the Charitable Deduction," 1973 *University of Illinois Law Forum*, pp. 294-306.

[13]Bittker, *op cit.*, pp 40-43

[14]Association of American Universities, *op. cit.*, pp 7-8

[15]The arguments for and against proposed changes are discussed in Association of American Universities, *Tax Reform*, pp. 10-38.

One proposal for bringing this about and for making the tax system more equitable has been suggested by Alan Pifer, president of the Carnegie Corporation.[16] Under his plan, every taxpayer, whether or not he itemizes, would either be given a fifty per cent tax credit for his charitable gifts or be allowed to file under the present system, whichever would benefit him more. The Pifer plan would have the effect of expanding philanthropic giving in the middle and lower brackets.

To conclude, we favor maintaining a system of philanthropy which conveys part of the power over allocation of resources for public purposes to individual donors and which helps to preserve the initiative and institutional integrity of colleges and universities. In addition to preserving the various incentives for private contributions, a clear national policy is needed for philanthropic giving. The uncertainties of recent years have handicapped fund-raising for higher education.

CONCLUSIONS AND RECOMMENDATIONS

Federal and state income, inheritance and estate taxes should continue to provide strong incentives for philanthropic giving. These incentives should be strengthened, for example, by adopting the Pifer plan for increasing the exemptions available to lower-income taxpayers. Private colleges and universities should have the same tax exemptions as comparable public institutions.

16. "Revitalizing the Charitable Deduction," *Annual Report*, Carnegie Corporation of New York, 1972, pp. 3-12

10

Fund Raising by Public Institutions

Many public institutions have long engaged in fund raising from private donors. The practice is growing. For example, campaigns have recently been announced at California State University at Northridge for $10,000,000 over ten years, at California State Unviersity at Fullerton for $2-6,000,000 a year, at UCLA for $20,000,000 over five years, plus the annual fund which grosses $15,000,000 a year.[1] The increase in voluntary support to public institutions over the past decade is shown in Table 13.

It is apparent that public institutions need private funds for enriching existing programs and for innovation. Legislative bodies have typically demonstrated a reluctance to underwrite these two areas. They become even more reluctant to appropriate funds for enrichment and innovation during periods of public purse-tightening. At the same time, educational leaders of public institutions need new sources of funds to maintain the vitality of their programs. The public institutions naturally turn to private giving.

The increased resort to private fund raising by public colleges and universities has implications for both the public and the private sectors. Although some of the contributions to the public sector will represent additional resources available to higher education as a whole, other contributions may be made at the expense of private institutions.

CONCLUSIONS AND RECOMMENDATIONS

In the area of private giving as a source of support for higher education, new relationships and understandings between the public and the private sectors are needed. The private institutions should acknowledge that public colleges and universities may need private gifts for innovation and enrichment; the public sector should recognize that private institutions must enlarge their search for public funds, on both state and federal levels, in order to maintain their vitality.

[1] *Los Angeles Times*, April 14, 1974, pp. 3, 24

11

Other Measures

The task force has given primary attention to basic public policies for private higher education. At the same time, we would call attention to several other measures which merit support. We are not presenting complete documentation on these measures because others have already done so. But we regard them as of great importance in a coherent program for the strengthening of the private sector.

1. A national student loan system should be created, with adequate capital, to provide long-term loans on moderate terms. In recent years much attention has been given to the need for a comprehensive and practical student loan system, and an enormous literature has been produced on technical aspects of the use of credit to finance students. But the nation is a long way from a coherent and efficient student loan program with workable provisions and adequate capital. Both the states and the federal government should give high priority to repairing this deficiency. A loan system, however, is not a substitute for tuition grants or for other forms of student aid. Loans should be employed as a *supplemental* form of assistance for students in both private and public institutions, not as the main source of financial aid.
2. For nearly a decade the Congress and the executive branch of the federal government have jointly supported a program to strengthen the academic quality of developing institutions. This program provides significant help to colleges serving minority students. We are encouraged, in the final year before the law expires, by the administration's budget request and by an initial congressional response which offers a hope of full funding of this program for the first time. For the benefit of many small colleges and universities, this program should be reauthorized when it expires. Special emphasis should be applied to that portion of the program which provides basic grants for a period of more than one year.
3. Graduate fellowships and increased funding of research should be provided as recommended in the 1974 report of the National Board on

Graduate Education.[1] Graduate fellowships should be adjusted to meet the tuitions of the particular institutions attended by the holders of such fellowships.

4. Although we recognize that highest priority has to be given to current operations, we are nevertheless aware that we are entering a period in which private institutions will have deferred expenditures for depreciation and maintenance and will be unable to set aside adequate funds for these purposes out of current revenue. We therefore recommend that matching grants be made available to private institutions from federal or state funds, for replacement, remodeling and reconstruction of buildings and equipment. We also recommend that bonding authority, which is available to private institutions in some states, be generally adopted.
5. Lifelong or recurring education should be financed in ways that will enable private institutions, along with those in the public sector, to serve students in this growing field. Funds are needed (1) to support adult education programs and (2) for aid to adult students. So far, the nation has not seriously addressed the problem of financing continuing education. Programs have been financed from funds already available for "extension" or have been made to be self-supporting or even profit-making from fees. Support for students has been virtually non-existent, though it is urgently needed if the promise of adult education is to become a reality. Solutions must be found that will enable both public and private institutions to meet these educational needs.

[1] National Board on Graduate Education (sponsored by Conference Board of Associated Research Councils), *Federal Policy Alternatives Toward Graduate Education*, Washington, 1974

Table 1

Enrollment in Private Colleges and Universities as a Percentage of Total Enrollment in All Institutions, United States, 1950-1973

	All Institutions	All Four-Year Institutions
1950	50%	53%
1955	44	48
1960	41	45
1965	34	38
1970	27	32
1973	24	30

Source: American Council on Education, *A Factbook of Higher Education*, Washington, 1974, pp. 9, 15. Refers to degree-credit students. Four-year institutions include those which offer a bachelor's degree or higher.

Interpretation of data: in 1950 private institutions of all types accounted for 50 per cent of total enrollment in all institutions, while private 4-year institutions accounted for 53 per cent of the enrollment in institutions which offered the bachelor's degree or higher.

Table 2

Private Colleges and Universities,
Number and Enrollment by Type,
1972-73

	Number of Institutions	Enrollment
Leading research universities (awarded in 1970-71 more than 50 Ph.D.s and received more than $10 millions in federal support of academic science)	23	281,000
Other research universities (awarded in 1970-71 more than 30 Ph.D.s and received more than $5 million in federal support of academic science)	13	115,000
Other doctoral-granting universities	48	304,000
Comprehensive colleges and universities (offer masters' degrees and have enrollment of more than 3,500 students)	44	248,000
General baccalaureate colleges (institutions with fewer than 3,500 students including mainly liberal arts colleges)	719	816,000
Two-year colleges	247	131,000
Separate specialized professional schools (including schools of medicine, other health professions, engineering, business, music, art and design, law, teacher training)	437	238,000
TOTAL	1,531	2,133,000

Source: Judith T. Irwin and John D. Millett, *The Campus Resources of Higher Education in the United States of America*, Academy for Educational Development, Washington, D.C., 1973, pp. 10-11. A similar table with slightly different classifications may be found in Carnegie Commission on Higher Education, *A Classification of Institutions of Higher Education*, Berkeley, 1973, pp. 6-7.

Table 3

Distribution of Private Colleges and Universities by State, 1972

	Number of Private Institutions		Number of Private Institutions
Alabama	21	Nebraska	14
Alaska	2	Nevada	2
Arizona	6	New Hampshire	15
Arkansas	11	New Jersey	36
California	105	New Mexico	5
Colorado	11	New York	157
Connecticut	26	North Carolina	45
Delaware	4	North Dakota	3
D.C.	16	Ohio	69
Florida	29	Oklahoma	14
Georgia	32	Oregon	20
Hawaii	5	Pennsylvania	114
Idaho	3	Rhode Island	10
Illinois	89	South Carolina	25
Indiana	42	South Dakota	10
Iowa	36	Tennessee	45
Kansas	24	Texas	53
Kentucky	28	Utah	5
Louisiana	11	Vermont	14
Maine	13	Virginia	35
Maryland	24	Washington	12
Massachusetts	89	West Virginia	11
Michigan	45	Wisconsin	30
Minnesota	33	Wyoming	0
Mississippi	17	Other	13
Missouri	49		
Montana	3	TOTAL	1,531

Source: Irwin and Millett, *op. cit.*, pp. 16-19

Table 4

Average Enrollments in Public and Private Institutions, by Type, 1972

	Public	Private
Leading research universities	26,400	12,234
Other research universities	16,809	8,824
Other doctoral-granting universities	13,374	6,337
Comprehensive colleges and universities	8,098	5,629
General baccalaureate colleges	2,019	1,135
Two-year colleges	3,006	531
Specialized professional schools	1,471	544
All institutions	4,851	1,393

Source: Irwin and Millett, *op. cit.*, p. 13

Table 5

Sources of Educational Income, Private Institutions of Higher Education, United States, 1929-30 to 1970-71

	Tuitions and fees	Government	Endowment	Current Gifts	Total
1929-30	57%	--	31%	12%	100%
1939-40	57	4%	25	14	100
1949-50	42	31*	13	14	100
1959-60	59	5	14	22	100
1965-66	64	9	10	17	100
1970-71	64	9	9	18	100

*GI period

Source: Carnegie Commission on Higher Education, *Higher Education: Who Pays? Who Benefits? Who Should Pay?* McGraw-Hill, New York, 1973, pp. 22-23, 136-61. Excludes federal grants for research and public service, gifts designated for student aid, auxiliary enterprise income, and other income.

Table 6

Educational and General Expenses per Student, in Current and Constant Dollars, 48 Private Liberal Arts Colleges, 1964-73

	Current Dollars	Constant Dollars
1964	$1,849	$1,849
1965	1,955	1,874
1966	2,049	1,870
1967	2,228	1,936
1968	2,387	1,968
1969	2,580	1,995
1970	2,835	2,048
1971	3,026	2,075
1972	3,138	2,056
1973	3,282	2,036

Source: G. R. Wynn, *At the Crossroads: A Report on the Financial Condition of Forty-eight Liberal Arts Colleges . . .*, University of Michigan, Ann Arbor, 1974, p. 23. Wynn indicates that the rate of inflation of costs is greater in higher education than in the economy generally.

Table 7

Average Tuition and Fees in Public and Private Institutions and the Tuition Gap, Selected Years, 1956-57 to 1972-73

	Private	Public	Dollar Gap	Ratio
1956-57	$ 589	$173	$ 416	3.4
1961-62	906	218	688	4.2
1966-67	1,233	275	958	4.5
1971-72 (est.)	1,781	367	1,414	4.9
1972-73 (est.)	1,919	392	1,527	4.9

Source: U.S. Office of Education, *Projections of Educational Statistics*, Washington, U.S. Government Printing Office, 1967 edition, p. 94; 1968 edition, pp. 98-9; 1970 edition, pp. 109-10; 1971 edition, pp. 106-7

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Table 8

Three Possible Formulas for Tuition Offset Grants

I		II		III	
Public Institutions		**Public Institutions**		**Public Institutions**	
Average instructional cost per student	$2000	Average instructional cost per student	$2000	Average instructional cost per student	$2000
Average tuition and fees per student	400	Average tuition and fees per student	400	Average tuition and fees per student	400
Subsidy per student	1600	Subsidy per student	1600	Subsidy per student	1600
Private Institutions		**Private Institutions**		**Private Institutions**	
Average tuition and fees per student	2000	Average tuition and fees per student	2000	Average tuition and fees per student	2000
Proposed tuition offset (25% of subsidy per student in public institutions)	400	Proposed tuition offset (50% of subsidy per student in public institutions)	800	Proposed tuition offset (75% of subsidy per student in public institutions)	1200
Average tuition and fees per student after tuition offset	1600	Average tuition and fees per student after tuition offset	1200	Average tuition and fees per student after tuition offset	800
Tuition Gap per Student		**Tuition Gap per Student**		**Tuition Gap per Student**	
Before enactment of tuition offset	1600	Before enactment of tuition offset	1600	Before enactment of tuition offset	1600
After enactment of tuition offset	1200	After enactment of tuition offset	800	After enactment of tuition offset	400

With tuition offset grant based on 25% of subsidy per student in public institutions the tuition gap would be narrowed from $1600 to $1200; with 50% it would be narrowed from $1600 to $800; with 75% it would be narrowed from $1600 to $400. In no case would the tuition gap be completely eliminated and in every case the state would save money on every student who attended a private institution.

Table 9

Percentage Distribution of Undergraduate Students by Family Income and Institutional Type, 1972

Institutional Type/ Income Level	Public Institutions	Private Institutions
Research Universities:		
Under $10,000	28.0%	19.8%
$10,000 and above	72.0	80.2
Other Doctorate Granting Institutions:		
Under $10,000	33.9	32.7
$10,000 and above	66.1	67.3
Comprehensive Colleges:		
Under $10,000	42.8	30.5
$10,000 and above	57.2	69.5
Liberal Arts Colleges:		
Under $10,000	25.0	29.9
$10,000 and above	75.0	70.1
Two-Year Colleges:		
Under $10,000	39.9	33.4
$10,000 and above	60.1	66.6

Source: U.S. Bureau of the Census, *Current Population Survey* (October 1972), special tabulations; taken from The National Commission on the Financing of Postsecondary Education, *Financing Postsecondary Education in the United States*, U.S. Government Printing Office, December 1973, p. 140

Table 10

Private Gifts and Contributions as a Percentage of Total Institutional Expenditures, by Institutional Category, 1970-71 (Dollar figures in millions)

Type of Institution	Private Gifts	Institutional Expenditures	Percentages
Major Private Universities	$ 604.5	$ 2,961.2	20.4
Private Men's Colleges	31.4	101.0	31.1
Private Women's Colleges	56.8	225.3	25.2
Private Coed Colleges	345.1	1,453.8	23.7
Prof. & Spec. Schools	118.2	433.4	27.3
State Universities and Colleges	314.1	7,095.8	4.4
Municipal Universities and Colleges	11.6	248.8	4.7
Junior Colleges	22.2	363.3	6.1
	$1,503.9	$12,882.7	11.7

Source: Data for Columns 1 and 2 from Council for Financial Aid to Education, *Voluntary Support of Education 1970-71*, pp. 62-63; percentages calculated for the Task Force. Institutional expenditures comprise "educational and general" expenditures and student aid.

Table 11

Income from Endowment and Current Gifts as Related to Total Educational Funds, 1970-71
(Dollar figures in millions)

	Public Institutions	Private Institutions	Total
Endowment income	$ 70	$ 430	$ 500
Gifts applied to current expenditures	330	830	1,160
Total of endowment income and current gifts	400	1,260	1,660
Total educational funds	11,076	4,983	16,059
Endowment income and current gifts as percentage of total educational funds	3.6%	25.3%	10.3%

Source: Carnegie Commission on Higher Education, *Higher Education: Who Pays? Who Benefits? Who Should Pay?* McGraw-Hill, New York, 1973, pp. 22-23

Table 12

Endowment Income and Current Gifts as Percentage of Total Educational Funds, Private Institutions, 1929-1970
(Dollar figures in millions)

	Endowment income	Gifts applied to current expenditures	Total of endowment income and current gifts	Total educational funds	Endowment income and current gifts as percentage of total educational funds
1929-30	$ 62.3	$ 23.4	$ 85.7	$ 204.5	42%
1939-40	64.6	35.3	99.9	256.1	39
1949-50	87.5	99.3	186.8	719.0	26
1951-52	100.8	123.6	224.4	724.9	31
1953-54	112.8	152.7	265.5	771.4	34
1955-56	128.8	197.1	325.9	950.0	34
1957-58	165.8	256.2	422.0	1,211.7	35
1959-60	187.0	297.7	484.7	1,500.7	32
1961-62	209.7	352.3	562.0	1,919.4	29
1963-64	238.8	437.7	676.5	2,393.9	28
1965-66	288.3	491.4	779.7	3,147.5	25
1967-68	328.2	633.7	961.9	3,795.5	24
1969-70	400.0	700.0	1,100.0	4,565.0	24
1970-71	430.0	830.0	1,260.0	4,983.0	25

Source: *Ibid.*, pp. 22, 136-61

Table 13

Voluntary Support to Public Institutions
of Higher Education, 1962-72

	Amount (in millions)	Voluntary support to public institutions as a percentage of voluntary support to all of higher education
1962-63	$145	15.8%
1964-65	195	15.7
1965-66	243	19.8
1966-67	244	19.2
1967-68	242	17.6
1968-69	270	18.5
1969-70	292	19.8
1970-71	326	21.6
1971-72	356	21.6
1972-73	383	21.9

Source: Council for Financial Aid to Education, *Voluntary Support of Education 1971-72*, New York, 1973, p. 66 and 1972-73 edition, 1974, p. 65

Appendix A

A REVIEW OF COMMENTS ON PRIVATE COLLEGES IN RECENT REPORTS ON FINANCING HIGHER EDUCATION

Howard R. Bowen

In the past year or two, four major documents on the financing of higher education have been prepared and published by distinguished citizen groups. These groups are: the Carnegie Commission on Higher Education, the Committee for Economic Development, the National Commission on the Financing of Postsecondary Education, and the Special Task Force to the Secretary of HEW.[1] Each of these groups, in one way or another, expressed views about the importance of the private sector of higher education and the need to make provision for sustaining and strengthening that sector. In general, all indicated appreciation of the contributions made to the nation by private institutions, all were concerned about the future strength and health of the private sector, and all made relevant recommendations. However, each of the documents was primarily concerned with other matters, and views on private higher education did not come through strongly. The purpose of this appendix is to summarize the views expressed in the several documents.

I. Carnegie Commission

The Carnegie Commission stated its basic position on the private sector as follows (p.113):

Perhaps the most perplexing problem facing higher education today is the diminishing capacity of private institutions to survive in the face of the wide tuition gap at the undergraduate level and a marked slowing down in the rate of growth of college enrollments. We believe it is essential for the health of our total educational system that the great majority of private colleges and universities are not permitted to decline in quality. Enrolling about one-fourth of all students in the country, they provide diverse educational options for students, and they perform a valuable role in quality education, curricular reform and innovation, teaching methods, and research. They also play an exceedingly valuable role in professional and graduate education and research.

The commission then made the following recommendations (pp. 113-17, 127):

1. Since private higher education confers social benefits, it should not be foreclosed from receiving public aid. Subsidies to private institutions may be a less costly means of widening access to higher education than expanding the public sector.
2. State governments should take into account the need to preserve and strengthen the private sector when setting policies on tuitions and on programs of public institutions. The two sectors should be complementary and mutually reinforcing.
3. While accountability goes with acceptance of public funds, accountability need not imply control or uniformity.
4. The Basic Opportunity Grants program should be fully funded and liberalized, thus making them more useful in both the public and private sectors.
5. The trend toward a steadily widening gap between public and private tuitions should be reversed by the states. The techniques would be a moderate rise in public tuitions, direct or indirect support to private institutions, or a combination of the two. Subsidies to private institutions should narrow but not eliminate the tuition gap. Students in private institutions and their parents should meet about one-third of total institutional costs for education.
6. Federal support of graduate education and research should be stabilized and gradually increased so that graduate study and research would not siphon funds from undergraduate education.
7. An adequate long-term loan program to serve as a supplemental form of student aid should be created.

The commission then pointed out that many states are experimenting with various schemes for providing public support to private institutions. They noted that conditions vary in different parts of the country and that variation among financial plans is to be expected. However, they expressed a preference for grants-in-aid to students based on a means test and with amounts higher for those attending private institutions than for those attending public institutions.

In a recent supplemental report[2] the commission reiterated its concern about the widening tuition gap: "Are private institutions under competitive pressure from public institutions? The answer is in the affirmative, but the situation varies greatly from category to category and from institution to institution. The institutions under the greatest pressure are the 'comprehensive colleges and universities' and the 'liberal arts colleges II' (less selective liberal arts colleges). The private two year institutions are also under substantial pressure. The competitive disadvantage in attracting students is greatest for private institutions when the (tuition) ratio is largest." To meet the problem, the commission repeated its suggestions "for narrowing the public-private gap: first, and most important, state support should be made available to private institutions; second, the rate of rise of private tuitions that marked the 1960s should be slowed down; third, there should be a 'modest and gradual' rise of public tuition on the average."[3]

II. Committee for Economic Development

The CED report says little directly about private institutions but a great deal by implication. The framers of this report recognize that the institutional structure of American higher education has evolved over time. This structure may not be perfect but it is what we have to work with for the foreseeable future (p. 71). And so they conclude pragmatically that "Qualified institutions now in existence must be adequately funded if individual students are to receive the educational opportunities . . . they should have and if the needed social gains from higher education are to be realized. . . . There are important differences between public and private institutions, and funding by public money should respect those differences. . . . It is appropriate that public colleges and universities receive a larger percentage of their income from tax monies than private institutions. Moreover, government grants to private institutions should take account of the income available to those institutions from private sources."

The CED report places strong emphasis on voluntary support of higher education (pp. 74-5) and urgently recommends that existing tax incentives for voluntary support be maintained and expanded. They say: "We have concluded that the flow of private support is essential to the diversity, strength, and vitality of the nation's colleges and universities." The major recommendation in the report is that tuitions in public institutions be increased to fifty per cent of instructional costs (defined to include a reasonable allowance for replacement of facilities). This recommendation is clearly intended to strengthen the private sector by narrowing the private-public tuition gap. A companion proposal is: "that federal funding . . . be primarily through grants and loans to individual students in accordance with their ability to pay . . . and that funding patterns of state governments place more emphasis on grants and loans according to the same criterion" (p. 24).

Other recommendations of the CED report are as follows:

1. That the federal government seek to achieve greater equality of educational opportunity among the states;
2. That grants to students be accompanied by cost-of-education allowances to institutions;
3. That the student loan system be expanded as a supplemental form of student finance;
4. That state and local governments contract with private institutions for educational services when public facilities are not adequate, and in this way put to use underutilized private facilities.

III. National Commission

The report of the National Commission on the Financing of Postsecondary Education was primarily analytical and it made few substantive recommendations. However, many parts of the report speak to the special attributes, problems or needs of private higher education. For example, in identifying

the objectives for postsecondary education, considerable emphasis was placed on student choice, student opportunity, institutional diversity, institutional excellence and institutional independence. The private sector is clearly relevant to the attainment of these objectives. And in assessing the achievement of these objectives, the role of the private sector was repeatedly considered.

In analyzing financial distress among colleges and universities, the commission reported (p. 209) that "the much-publicized tuition gap" between public and private colleges is real. They concluded that "the effort to reduce the tuition differential through institutionally-financed student aid has created a fundamental imbalance that, in view of current enrollment forecasts, threatens the financial viability of many private institutions. Most private institutions are now offering larger price discounts than they can continue to afford . . ."

On the other hand, the National Commission reported (p. 193):

> *In short, there has been a substantial number of reports issued during the past six years dealing directly or indirectly with the question of financial distress among collegiate institutions. Those who have studied the matter are far from unanimous, however, about the seriousness of the problem and the necessity for governmental intervention. Of special significance is the fact that the literature provides clear evidence that there is no agreement on a uniform definition regarding the nature of financial distress among postsecondary institutions, nor are there generally accepted standards or uniform criteria to ascertain its existence or extent. Thus, a careful review of these studies yields no clear understanding of the extent of financial distress or of its implications for public policy.*

The commission went on to recommend that a systematic and coherent effort be made to gether information periodically on the condition of institutions of higher education.

IV. Special Task Force to the Secretary of Health, Education and Welfare

This document, known as the Newman Report, is not directed specifically toward private higher education or toward the financing of higher education, but it contains many relevant implications.

The task force emphasized the importance of institutional diversity and recommended that greater variety should be encouraged. In this connection they stated (p. 48): ". . . it is desirable to preserve the conditions under which a healthy and effective private sector of postsecondary education can continue. The issue is not whether private higher education is more effective or more diverse than public. The combination of public and private *is* more

effective and more diverse than public alone. More important than ever is the point that the relative independence of some institutions helps insure the vitality and freedom of all." They also (pp. 59-60) cited with alarm statistics on the declining percentage of students in the private sector since 1950, and the fact that some private colleges are disappearing or going public.

The task force strongly recommended a federal policy for higher education to promote healthy competition among institutions, the competition to be principally a rivalry in attracting students. They stated (p. 116): "... the Federal government should choose forms of assistance which maximize the incentives for institutions to compete for students and minimize the risks of deliberate or inadvertent federal intrusion into institutional operations. ... the question 'Who gets what?' should be determined by student choice rather than legislative formulas or administrative decisions; therefore, we recommend that, wherever feasible, federal support for postsecondary education *flow to students* rather than to institutions." And continuing in this vein, they concluded (p. 122) that: "The existence of public and private institutions, competing for students on the basis of the effectiveness of their educational programs, improves the whole of post-secondary education. To preserve the conditions necessary for this competition to continue, the Federal government should give priority to strategies of post-secondary finance, particularly revision of its programs of student aid, which would *narrow the tuition differential between public and private institutions* without compromising the autonomy or independence of either. The vitality of both public and private campuses, their ability to differentiate themselves and the possibilities for creation of new educational enterprises are importantly affected by funds from private donors and foundations. In the re-examination of *federal tax policies* care should be taken to *enhance this flow of funds and* encourage a broader participation of the public in education philanthropy."

V. Conclusions

The four major documents on higher education that have been produced by distinguished groups in the past year or two are clearly supportive, in their general thrust, of the philosophy and recommendations of the present report. They acknowledge the importance to the nation of preserving and strengthening the private sector; they recognize that the private sector is vulnerable to serious weakening or even extinction unless rescued by appropriate public policies, and they identify the tuition gap as the significant problem. They advocate or suggest tuition offsets, grants to private institutions, more generous student aid, and strengthening of incentives for philanthropic giving as practicable solutions. These recommendations are not fully developed in the four documents and are not precisely the same as those in the present report. But the implications of the four documents for the private sector of higher education are quite congruent with those of the present report.

[1]Carnegie Commission on Higher Education, *Higher Education: Who Pays? Who Benefits? Who Should Pay?* (New York: McGraw-Hill Book Company, June 1973); Committee for Economic Development, *The Management and Financing of Colleges* (New York: CED, October 1973); National Commission on the Financing of Postsecondary Education, *Financing Postsecondary Education in the United States* (Washington: U.S. Government Printing Office, 1974); Special Task Force to the Secretary of HEW, *National Policy and Higher Education* [Newman Report] (Washington: Department of HEW, October 1973)

[2]*Tuition: A Supplemental Statement to the Report of the Carnegie Commission on Higher Education on "Who Pays? Who Benefits? Who Should Pay?"* 1974, p. 33

[3]*Ibid.*, p. 15

Appendix B

IMPLICATIONS OF EIGHTEEN-YEAR-OLD MAJORITY

David J. Hanson[1]

I. Introduction

This appendix is a summary of the tentative conclusions reached as part of a research study conducted at the University of Wisconsin-Madison by the author under a contract with the Association of American Colleges supported by a grant from the Arthur Vining Davis Foundations. Financial assistance was also provided by Lilly Endowment, Inc. through the National Council of Independent Colleges and Universities. The complete study will go beyond the issues dealt with here, both in scope and in detail. The extensive footnotes and references available in the final paper have been reduced to a minimum in this summary. The results of the study will be published in monograph form in the fall of 1974 by the Association of American Colleges.

This paper is written for the layman. The conclusions which it reaches are generalized and tentative. The material contained in the paper is no substitute for careful legal advice based on specific fact situations. The conclusions are the sole responsibility of the author, who is fully cognizant of the lack of predictive value of many of the cases cited herein.

Administrators, faculty and commentators on higher education predicted substantial legal and sociological impact on higher education as a result of the 1972 ratification of the 26th Amendment to the United States Constitution, granting eighteen-year-olds the right to vote, and resultant action in over forty states legislatures to reduce the age of majority under state law. The legal concept of majority means "... the age at which, by law, a person is entitled to the management of his own affairs and to the enjoyment of civil rights. The opposite of minority."[2] "Majority," however, is not a definitive concept. Majority depends on state law and, even within a state, majority may differ for such legal rights as obtaining a driver's license, purchasing alcoholic beverages, marriage without parental consent, signing binding contracts, etc. A patchwork treatment of majority for different purposes is characteristic of most states.[3] Interstate differences abound.[4] In general, however, states have reduced their age of majority from the most common age of 21 to 18 for most purposes.

The major implications forecast for higher education were financial.[5] The issues were these:

1. Could institutions of higher education, consistently with the constitutional guarantees of due process and equal protection, continue to measure a student's needs for financial aid by reference to the assets of the parents when the student was independent as a matter of state law?
2. Could public institutions of higher education continue to classify a more mobile adult population as non-residents for tuition purposes?
3. Could public and private institutions continue to require adults to live in on-campus housing, and thus differentiate between various classes of adults, consistently with the constitutional guarantees of equal protection and due process?

Each of these issues has a direct financial effect on individual colleges and universities and on the choices to be made in dealing with issues of financing policy at the state and national level. However, for the reasons suggested below, it may be that while the practical effects of a reduced age of majority are substantial the legal effects are minimal.

II. Dependency and the Family Unit

Recently proposed guidelines for the Supplementary Educational Opportunity Grants program provide the following test for a "self-supporting" or "independent" student:

> (r) "Self-Supporting or Independent Student" means a student who:
>
> (1) Has not and will not be claimed as an exemption for Federal Income Tax purposes by any person except his or her spouse for the calendar year(s) in which aid is received and the calendar year prior to the academic year for which aid is requested.
>
> (2) Has not received and will not receive financial assistance of more than $600 from his or her parent(s) in the calendar year(s) in which aid is received and the calendar year prior to the academic year for which aid is requested, and
>
> (3) Has not lived or will not live for more than 2 consecutive weeks in the home of a parent during the calendar year in which aid is received and the calendar year prior to the academic year for which aid is requested.[6]

This regulation continues the traditional method of separating the independent student from the dependent student on the basis of a pattern of past support and is, in some respects, more stringent than the guidelines for the National Direct Student Loan Program.[7]

The underlying rationale for this and similar guidelines at the federal, state and institutional level, while never clearly articulated, seems to be a determination that, as among the various resource bases for financing an individual student's education, the income and assets of the family unit should be exhausted before limited governmental resources are made

available. From the student's standpoint, the major problem with such a rule is that it does not recognize his or her status as an adult, it does not necessarily reflect actual parental contributions in the current year, and it presumes a family relationship which may not exist.

To date there has been no litigation on the issues raised by the type of rules exemplified in the regulations cited above. It is important to put the regulations in context. The regulations only determine *if* family resources will be examined to determine need. They do not address the question of ability to contribute. The determination of need is made by means of a "needs analysis." The regulations really test "parental willingness" as opposed to "ability" to contribute. In effect, the regulations embody a social policy in favor of apportioning limited amounts of financial aid on a priority basis to those persons who are willing to provide strong evidence that they really are independent or who are willing to have family resources factored into a determination of need.

Neither present nor proposed regulations make distinctions on the basis of age. Thus it is not only theoretically but actually possible to have a 35-year-old dependent student and a 17-year-old independent student. To this extent the reduced age of majority has no real bearing so far as the *legal* case is concerned. The regulations were as vulnerable to attack by a 22-year-old dependent student as they are now by the dependent 19-year-old student. The practical effect, however, is to increase geometrically the level of discontent, since most of the need-based federal and state programs are administered for undergraduates.

There are two potential levels of legal attack. The first attacks the over-all design of the regulations. The second raises questions about the specific tests imposed by the regulations. In each case both due process and equal protection claims might be advanced against the regulations.

Equal Protection. If a statute, regulation or rule is under attack on equal protection grounds, two types of analysis might apply. The traditional equal protection analysis erects a presumption of constitutionality and requires only that there be some rational connection between the distinctions drawn and the purpose of the regulation. The second type of analysis is more stringent. Where the distinctions under attack involve "suspect classifications" or "fundamental interests" the classification scheme adopted will be subject to strict scrutiny. At this time "suspect" criteria include race, alienage (or national origin) and religion. Some members of the United States Supreme Court have implied that poverty (or wealth) and sex may also be suspect classifications. Fundamental interests recognized by the United States Supreme Court include the rights to vote, privacy, access to court, and free speech and association.

The particular regulations under consideration do not appear to erect distinctions involving either "suspect criteria" or "fundamental interest." The real distinction appears to be on the basis of wealth – or at least past contributions. It would also appear that the effect of the distinction on education does not implicate a fundamental interest. In the recent case of *San Antonio School District v. Rodriguez*,[8] the United States Supreme Court undertook to review the effects of the Texas school financing statutes as they

related to equality of educational opportunity. The Court in effect concluded that beyond some undefined basic level of opportunity, differences in expenditures per pupil do not violate the equal protection clause. Put another way, the right to an equal educational opportunity beyond the level of adequacy is not a "fundamental interest." Since the *Rodriguez* case involved elementary and secondary school students, it would seem that, *a fortiori*, access to financial aid to pursue a higher education would not be a "fundamental interest." However, in some circumstances the regulations may arguably create a significant educational barrier requiring some individuals to postpone their education one or more years in order to qualify for aid as an independent student.[9] The possibility may be sufficiently intriguing to generate a test of the regulations on the theory that the denial of educational opportunity effected by the regulations rises to the level of a "fundamental interest."

Most likely, however, the equal protection arguments leveled at the regulations will be combined with one or more due process arguments, with due process as the main avenue of attack.

Due Process. The due process and equal protection analyses overlap to the extent that some discrimination may be violative of due process. The main thrust of a due process attack is suggested by a number of recent welfare cases and one higher education case dealing with so-called irrebuttable presumptions.[10] In these cases the United States Supreme Court has made it clear that the due process clause is antithetical to permanent irrebuttable presumptions which operate in a manner unrelated to fact and do not further the legislative aim.

First, a generalized attack on the regulations is possible under the line of irrebuttable presumption cases. An irrebuttable presumption is arguably created in the basic assumption that if a parent makes some contributions to the education of his/her offspring this willingness or ability continues into the next year and perhaps beyond.[11] Put another way, the system presumes future support from the fact of present support. That presumption appears to be irrebuttable.[12]

Arguably, there is no rational connection between parental support in one period of time and parental support for the future. Again, however, it is well to keep in mind that the regulations are really a threshold test. Ability to contribute is analyzed only *after* a pattern of prior support is shown. Moreover, such a presumption has historical foundations and, in a period of limited financial aids, is probably good social policy. The effect of the lack of financial aid for the dependent student from a high-income family probably operates to strengthen the ties of dependence. The safest prediction in a *general* sense may be that something like the present system is sufficiently rational to withstand attack. Also, the more flexibility that is built into the system, allowing students and their parents an opportunity to demonstrate that the test for "independence" and the standard "needs analysis" do not fit their situation, the less vulnerable the system is to attack.

This is not to say that specific features of the present system are not subject to due process attack. While the over-all objectives of the program may be constitutional, particular features of the present program, and

particularly the new SEOG program regulations, are troublesome. It would appear that the over-all intent of the regulations is to provide a filtering device to promote an apportionment of limited resources to the most needy. The goal is served if those most in need have first claim on the available resources.

The regulations require that the student not be taken "as an exemption for Federal Income Tax purposes . . . for the calendar year in which aid is received and the calendar year prior to the academic year for which aid is requested." In effect, the claim as an exemption is a certification by the parent or family that the student received more than one half of his/her support from the claimant. The exemption test, as well as the $600 of support test in the next section of the proposed regulations, thus make sense insofar as they apply to the year in which aid is requested. But what about the prior year feature? This section of the regulations operates to create an irrebuttable presumption that the student has a future claim on family resources within the confines of the needs analysis. This presumption is arguably contrary to fact, particularly where the parent may have improperly claimed the exemption, or, although providing support in the past, now flatly refuses to provide any more. Similarly, the two consecutive weeks provision in the SEOG regulations might be challenged as unrelated to likely parental contribution.

This type of infirmity in the present regulations might be addressed in two ways. First, the regulations could remain intact with the strong probability of court challenge. If such a challenge were made the regulations might be defended as reasonable and related to fact. Moreover, flexibility could be provided by judicious use of available administrative flexibility to test the actual potential for support in particular cases to avoid hardship. A student could argue that higher education does have reasonable alternative means available to determine whether parental resources will in fact be available to students. Whether alternatives such as affidavits, hearings, forms or different regulations would adequately cope with the need to apportion scarce resources is subject to serious question. Moreover, the presumptions operate in an area qualitatively different from the welfare cases in which the "irrebuttable presumption" label has been fatal.[13] The presumption here is not permanent and may be overcome—or avoided—by judicious planning or postponement of entry into the educational system. In any event, the arguments are sufficiently intriguing to encourage litigation with some likelihood of success.

A second approach would be to preserve the over-all design of the regulations but remove some of the questionable features and build in more administrative flexibility—allowing a student to demonstrate in a specific case that the operation of the regulations, while generally appropriate, does not accord with the facts of his/her particular case. Unfortunately, the over-all policy goal of the regulations—to maximize the impact of governmental resources on those who are truly without other resources to look to—argues for easily administered, objective standards. The resolution of these issues is a difficult policy question with far-reaching implications so long as available governmental aid remains far below actual need.

III. Public College and University Tuition

The practical effect of a reduced age of majority on the collection of non-resident tuition is immediate and far-reaching. Most state common or statutory law presumes the residence of a minor to be with his/her parents. Before 1971 the bulk of the students in public higher education were under 21 up to and including at least a part of the year next preceding their senior year. It was far easier to determine where a student's parents lived than it is to now determine where today's student resides. A reduced age of majority changed the system in that all students over eighteen may now establish residence in their own right.

The magnitude of non-resident tuition payments as a resource for public higher education has been well documented by Robert M. Carbone.[14] The impact on private higher education is also considerable. If residence barriers are lowered, it would make private higher education relatively less attractive in an economic sense when compared to attendance at a public institution at resident rates. On the other hand, to the extent that various state loan programs discriminate between residence and non-residence, an easing of the residence requirement could result in more dollars being available to students at private institutions.

A. *Durational Residence Requirements.* The law now seems settled that durational residence requirements of up to one year prior to eligibility for resident status are permissible. The United States Supreme Court has affirmed without opinion two lower court cases squarely raising the issue.[15] The most recent of these cases, *Sturgis v. State of Washington*[16] raised challenges to Washington's one-year durational requirement on the grounds of equal protection, due process and violation of a right to travel. The lower court in *Sturgis* had relied heavily on the United States Supreme Court opinion in *San Antonio Independent School District v. Rodriguez* and specifically held that a person is not entitled to a higher education as a matter of right. The lower court adopted a traditional equal protection test and concluded that there was a rational, reasonable and relevant distinction between the differentiated classes.

The Supreme Court also recently took the opportunity in *Vlandis v. Kline*,[17] to review its prior decisions. In a footnote the Court expressly approved of the decision in the *Starnes* case which upheld Minnesota's one year durational residence requirement. The Court also discussed with approval the actions of the Connecticut Attorney General in attempting to establish reasonable residence criteria.[18] The Court's apparent view that immediate access by citizens of one state to institutions of higher education in another state is not a "fundamental interest" seems to provide assurance that a reasonable, well administered non-resident tuition program (and by implication a "residents only" student aid program) will be constitutional.

B. *Irrebuttable Presumptions.* In operating a resident-nonresident classification scheme a state may not impose irrebuttable presumptions. In the *Kline* case the United States Supreme Court struck down a Connecticut statute which had, in part, provided that a student would be permanently classified as a non-resident student if his or her "legal address for any part of the one

year period immediately prior to his application for admission . . . was outside of Connecticut."[19] The Court characterized these classifications as "permanent and irrebuttable" and consequently a violation of due process.

C. *Conclusion.* Taken together, *Rodriguez* and *Kline* virtually guarantee that states will be able to continue to charge differential rates for residents and non-residents and administer "residents only" programs of student assistance. However, the due process and equal protection clauses will provide avenues to ensure even-handed and consistent administration of objective standards of residency. Specific cases are likely to raise questions about the procedures followed in making such determinations. Since the great dollar differentials between resident and non-resident rates or benefits will probably continue, appeal to the courts for relief in particular cases is likely.

IV. Required Dormitory Residence

Virtually every thoughtful commentator, and even *Time* magazine, has expressed concern that a reduced age of majority marks the end of residence halls as self-supporting enterprises. The concern is well founded, and a number of recent cases, albeit all federal district court decisions, appear to sharply restrict the ability of public institutions to enforce on-campus residence rules. Commonly, institutions have required students to live in dormitories for various periods of their academic careers. While the regulations differ from campus to campus and state to state, some common rules require all freshmen, all persons under 21, all women under age 21, or other classes to reside in the dorms.

Students who are now adult at 18 or 19 do not like to be told where to live. If college rules formerly set 21 as the cut-off, a reduction in the age of majority and new-found adult status seeks recognition in relaxed parietal rules. Academic administrators, regents or trustees, and other officials have not always been consistent as to why we have dormitories on the one hand (low cost, convenient, and acceptable housing) and why we have particular regulations on the other (to fill those dorms and pay off the bonded indebtedness). Do the dormitories have educational value; if so, how much? The answer to the first part of the question is yes. The answer to the second part is unclear.

A. *Due Process and Equal Protection.* A review of the cases in detail is beyond the scope of this summary. One Louisiana case struck down state regulations requiring women under the age of 21 to reside in dormitories, on the ground that the *sole* reason for the regulations was economic and that the placing of the financial burden on one group of students (residents) as opposed to the remainder violated equal protection.[20] A later Louisiana case upheld regulations requiring dormitory residence until age 21 (with numerous exceptions) on the basis of the "educational value" claim asserted by the institution which was uncontroverted on the record.[21] The most recent Louisiana decision struck down Louisiana rules with an age cutoff at 23.[22] In the course of that decision the Court made the following observations:

> *There was no direct testimony supporting the contention that requiring a student who is 21 years old or older to live on campus in a dormitory was reasonably related to the educational process. Certainly there was no evidence presented to support the requirement that returning military veterans living in dormitories is reasonably related to the educational process. To the contrary, expert witnesses on behalf of plaintiffs stated that requiring a student of this advanced age, and otherwise having full legal status, to live in campus dormitories was not reasonably related to the university educational process and further might prove detrimental in terms of alienation and development of characteristics of maturity by "being on their own." While the "living and learning" concept* per se *is not challenged,* the implementation of that concept at Southeastern, insofar as it requires students of full legal majority and returning military veterans to live on campus, is found not to be reasonably related to the educational process. *(emphasis added)*[23]

It is worth noting that this most recent case was decided before changes in Louisiana law reduced the age of majority to eighteen. The result in a future case might be affected by that fact.

At least one case has hinted that financial reasons may suffice as a basis for the regulations. In *Poynter v. Dreydahl*[24] the court found "... nothing sinister in the interest of a state-supported university in insuring its mandatory obligation to honor its bonded indebtedness. That too is a legitimate end."[25] The case, however, is limited in its applicability by the admission of the students that the dormitories might have a reasonable educational benefit.

Most recently, a South Dakota federal district court applied a traditional equal protection analysis to South Dakota regulations and concluded that there was not an adequate link between the rules and the goals. In *Postrollo v. the University of South Dakota*[26] the court said, among other things:

> *It is obvious from the evidence presented that the concern of the Board of Regents is financial.*[27]

> *This court recognizes there are valid educational objectives behind the construction of dormitories.... While the objective behind dorm construction may be educational, the objective behind the regulation requiring freshmen and sophomores to reside in dormitories is to retire bond indebtedness and it is unreasonable and arbitrary to make only some students pay for a benefit received by all students.*[28]

> *... [t]here is no concrete evidence in the existing record... that the experience of dorm* living *either "broadens and enriches" a student's life or that it enhances his formal education in the area of personal and social development ...*[29]

B. *State Action and the Private College.* Private colleges and universities may well be immune from attacks on residence regulations. In order to raise the constitutional issues, the private school student would have to show

sufficient "state action." "State action" is a prerequisite to raising federal constitutional issues under the 14th Amendment. Courts have shown extreme reluctance to expand the state action concept to private colleges and universities, although the cases have presented ample opportunities to do so. It is impossible to determine in the abstract whether "state action" is present in a particular case. The answer to that issue would turn on whether the particular facts concerning dormitory construction, control and regulation evidence a "public function," "state control," or significant state contact and involvement. It seems unlikely on the basis of the present case law that the doctrine of state action and thus the 14th Amendment requirements of due process and equal protection would be extended to the management of dormitories at private colleges and universities.

V. Conclusion

The likely impact of the age of majority in a purely *legal* sense has been much overrated. The sky has not fallen on higher education because of a reduced age of majority. The test of independence or self-support for most state and federal aid programs has not been dependent on age. However, the lowering of the age of majority has probably had significant impact on the number of undergraduates now seeking "independence." The policy behind existing and proposed regulations is almost certainly constitutional; some of the means chosen to implement that concept may not survive a challenge on due process grounds. Our present system of assessing non-resident tuition seems to be constitutional, although certain procedural aspects may still be regularly challenged with the goal of ensuring more consistent and objective administration. Public institutions of higher education will probably continue to have legal trouble with required on-campus living regulations. The parietal rules of private institutions will probably not be subject to the same due process or equal protection standards as those of public institutions. While the legal implications have been slow to develop, the practical effect has been to create a much larger pool of persons who are disaffected with treatment as a legal adult for some purposes and a "dependent" or "minor" for others.

Footnotes

[1]Assistant Chancellor and Legal Counsel, University of Wisconsin-Madison; project director for AAC research project on the impact of a reduced age of majority in higher education

[2]Black's Law Dictionary, 4th ed., West's Publishing Co., St. Paul, Minnesota

[3]Council of State Governments, "The Age of Majority" (1972) and "Age of Majority (Updated)" (1973), Lexington, Kentucky

[4]*Id.*

[5]See e.g. Young, "Ramifications of the Age of Majority," COSPA, Washington, D.C., 1973

[6]45 CFR 176.2(4), 39 FR 8625 (March 7, 1974)

[7]The present NDSL regulations, 45 CFR 144.7(b), establish only two tests: has the student been claimed as an exemption or has the student received more than $200 in the year in which aid is sought and in the preceding year? The "two week" provision of the proposed regulations is a significant tightening.

[8]*San Antonio Independent School Dist. v. Rodriguez*, 411 U.S. 1

[9]Because of the "preceding calendar year" language in both present and proposed regulations the waiting period to establish "independence" will almost always exceed one year.

[10]*U.S.D.A. v. Murry*, 413 U.S. 508 (1973); *U.S.D.A. v. Moreno*, 413 U.S. 528 (1973); *Vlandis v. Kline*, 412 U.S. 441 (1973)

[11]See footnote 7.

[12]Some question can legitimately be raised about the extent to which this feature is tempered in practice by flexibility available to the financial aids officer. The topic is deserving of further exploration.

[13]But, see *Vlandis v. Kline*, *supra* n. 10. The Kline case involved access to higher education, not welfare.

[14]Carbone: "Quotas and Dollars: the Squeeze on Non-resident Students" *Compact*, Vol. 5, No. 5, October 1971. Carbone: *Students and State Borders*, Act Publications, Iowa City, Iowa (1973). In *Students and State Borders* Carbone points out that state colleges and universities stand to lose between 250 and 300 million dollars annually if the ability to charge non-resident tuition were lost.

[15]*Starnes v. Malkerson*, 326 F. Supp. 234 (D. Minn. 1970), aff'd 401 U.S. 985 (1971); *Sturgis v. State of Washington*, 368 F. Supp. 38 (W.D. Wash. 1973), aff'd without opinion, 414 U.S. 1057 (1974)

[16]*Id.*

[17] *Supra*, n. 10

[18] "Indeed, as stated above, such criteria exists, and since Section 126 was invalidated, Connecticut through an official opinion of its Attorney General has adopted one such reasonable standard for determining the residential status of a student. The Attorney General's opinion states:

'In reviewing a claim of in-state status the issue becomes essentially one of domicile. In general, the domicile of an individual is his true, fixed and permanent home and place of habitation. It is the place to which, whenever he is absent, he has the intention of returning. This general statement, however, is difficult of application. Each individual case must be decided on its own particular facts. In reviewing a claim, relevant criteria include year-round residence, voter registration, place of filing tax returns, property ownership, driver's license, car registration, marital status, vacation employment, etc.' " *Vlandis v. Kline*, 412 U.S. 441, 454 (1973)

[19] Conn. Publ. Act No. 5, sec. 126(a)(2) (1971)

[20] *Mollere v. Southeastern Louisiana College* 304 F. Supp. 826 (E.D. La 1970)

[21] *Pratz v. Southwestern Louisiana Polytechnic Institute* 316 F. Supp. 872 (W.D. La 1970) Appeal dismissed 402 U.S. 951, aff'd per cur 402 U.S. 1004

[22] *Cooper v. Nix* 343 F. Supp. 1106 (1972)

[23] *Id.*, p. 1110

[24] 359 F. Supp. 1137 (W.D. Mich 1972)

[25] *Id.*, p. 1142

[26] *Postrollo v. University of South Dakota*, 369 F. Supp. 778 (D. S.D. 1974); 63 F.R.D.9 (D. S.D. 1974) (supplemental opinion)

[27] 369 F. Supp. at 780

[28] *Id.*

[29] 369 F. Supp. at 781

Appendix C

THE PRESIDENTS SPEAK: OPINIONS OF PRESIDENTS OF PRIVATE COLLEGES AND UNIVERSITIES ON PUBLIC POLICY FOR PRIVATE HIGHER EDUCATION

Howard R. Bowen

In April 1974, a letter of inquiry was sent to 37 presidents of private four-year colleges and universities representing varied institutions in all parts of the country. The presidents were asked to express their views on the role of private higher education, the outlook, and needed public policies to strengthen the private sector.[1]

The letter was not a questionnaire. Rather, it merely asked the respondents to reply by writing a letter expressing their views. More than thirty sent useful replies.

The purpose of the letter was to elicit suggestions of topics or points of view to be included in the task force report, and also to determine whether the report, as it was then taking form, was speaking to the concerns of practicing educators.

The respondents in no sense constitute a representative sample of all of private higher education. The responses are to be regarded as no more than a collection of replies from a particular set of experienced, well-informed and successful presidents. Nevertheless, the replies are of considerable interest in reflecting the thinking of at least some practicing educators. The replies also tend to confirm that the substance of this report is in touch with the realities of private higher education.

Importance of Private Higher Education

The responding presidents were unanimous in the view that the private sector of higher education makes a unique and important contribution to American society and that in the public interest it should be preserved and strengthened.

As one president put it:

> *The vitality of any society and any part of a society is dependent on having a multiplicity of centers of initiative . . . . I have often likened the present situation to what occurred at the secondary level of education at the turn of the century . . . . We suffer at the secondary*

level and already are beginning to suffer at the higher level of education from a homogeneity of approach that in time spells impotence and gradual deterioration . . . . The quality of higher education in this country will be in direct proportion to the size and vitality of the private sector. And if we are agreed that the quality of our society depends directly on the quality of our structure of higher education, the importance of the private sector is compounded.

Many of the presidents were not, however, uncritical in their advocacy of private higher education. Some indicated that not every single private institution should survive and that all "should have the freedom to fail as well as to succeed." Many respondents were careful to point out that the public sector also makes a valuable social contribution. The two sectors were seen as complementary and mutually supportive and any conflict between them as unfortunate and unnecessary.

High quality small private institutions . . . seem (1) fearful about asserting the validity of their basic purpose [because it really is elitist and narrow] and (2) overly eager to make themselves sound like mini-universities: lots of educational options, flexible requirements, open admissions, etc. . . . . We should say directly that we do general education and pre-professional work for better-than-average students with a theoretically oriented but teaching faculty, that we consider ourselves only part of the total needs of American higher education, but that we believe we can do this part better than any other kind of educational institution.

* * * *

I do not believe the world would come to an end if the private sector were to go out of business, but I believe much would be lost. . . . it is part of the American system to sponsor variety, lack of centralized control and maximum opportunity for experiment and innovation. This is best done if there is a system with minimum control exercised by government. In making this point it is easy to fall into the trap of being anti-public institution in attitude. I've heard many speeches seeking to promote private higher education which end up doing it by making public education look bad. This seems to me both impossible to document and strategically fatal.

Several pointed out that the arguments for the private sector, though entirely valid, tend to be abstract and subtle. It is extraordinarily difficult to make the case in a way that is compelling to the general public, legislators, and donors. Education in the private sector should take pains to state the case with greater rigor and persuasiveness.

The difficulty is that the argument is so intangible. We know what it's like to live in a society that has a private sector; few of us have thought much about what it's like to live in one that does not. For the

most part we have not pondered very deeply the loss of social energy and the diminished quality of life that accompany the absence of private foundations, privately supported educational institutions, and independent social and cultural organizations. Thus, the cry of "Pluralism in danger!" is likely to produce nothing more than a stifled yawn. No latterday Paul Revere is likely to bring out the Minutemen by shouting it down the village streets. Compared with easily grasped concepts such as "equality" and "efficiency," pluralism needs more than a skillful press agent to hold its own.

The Private Sector in Jeopardy

The respondents were also unanimous in the belief that the present condition of the private sector is precarious and that it will deteriorate unless corrective measures are taken. Several alluded to the difficulty of convincing the public and their representatives of impending danger.

Our budgets are squeezed. . . . Even the most fortunate of us are having a tougher time financially. None of us can contemplate the future with equanimity if present trends continue.

Many of us are encountering problems in maintaining enrollments without either lowering academic standards or making ability-to-pay an important criterion of admission. This is all the more disturbing because it comes just as we are trying to do our full share in the enrollment and education of disadvantaged students—an effort we are absolutely unwilling to abandon.

We share also the experience of increased competition from improved schools in the public sector, which is intensified by our ever-increasing expensiveness to the student, compared with tax-supported institutions.

In higher education, the private sector held steady for years at about one-half of total enrollments in the United States. Then around 1950 our share began to decline. By 1972 it had fallen to 24%, and there is no end in sight.

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My own expertise in these matters is less than my experience. My thinking has led me to conclusions like these: While in the short run, by keeping a budget base narrow and compact and by applying greater energy in fund-raising, I can find ways to defer crisis, I can find no way in the long run to make revenues keep pace with rising expense. The only strategies apparently available, thus, are defensive. We strategize against uncertainties and instability, keeping open as many options as possible, reduced to hoping that somehow before real difficulty comes, something will happen.

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Heaven only knows how much jeopardy we are in. While through stringent controls and a whole series of handsprings we may bring our budgets into some kind of balance, we are nonetheless in deficit

71

operation in terms of building maintenance and of decent wages and working conditions. And . . . unless we can get these matters straightened out the prospect of maintaining quality will be seriously threatened.

* * * *

The private sector is clearly in jeopardy because it is forced to compete on a totally inequitable price basis. It is amazing to me . . . that the private sector has been able to hold out so long in view of the unrealistic competition that has been brought about through the tax subsidized government schools. I know of no other area of business or social life that could have endured so long with such artificial price differentiation.

* * * *

The gap between the tuition at public and private universities will continue to grow and this gap threatens the long-run existence of private universities.

* * * *

The key to the present dilemma in the private sector of higher education is . . . to cope with the advantages given their public "competition" in direct and indirect subsidy of operations and facilities.

* * * *

Private higher education is in trouble. I believe our task is to define how and why as well as trying to prescribe "rescue efforts." My reading and experience tell me that private colleges have always been in trouble! During the 20s and 30s it was inadequate plants, inadequate enrollments, difficulties in maintaining enrollments, less than completely prepared faculty and inadequate offerings which troubled us. I graduated from a college which lived with all these difficulties. It survived. I graduated with some kind of an education. And the world goes on.

* * * *

I feel that responses to the plight of private higher education reflect an underdimensioning of the problem both by educators and the public and an inadequate commitment by persons associated with private institutions to make the kinds of sacrifice which will be necessary to effect renewal.

Several of the responding presidents recognized that many of the problems facing private higher education are also present in the public sector. As one president said:

Changing national circumstances bear on all higher education:

leveling of population growth, perhaps a decline ten years hence in college population, faltering national productivity, the special impact of inflation on institutions like colleges and universities, growth of other types of post-high school education . . . etc. The plight of public higher education has a direct bearing on the jeopardy in which the private sector finds itself.

However, after recognizing that many problems are shared by the public and private sectors, the stark fact remains that the tuition gap widens over time. Costs in the private sector rise without corresponding growth of non-tuition sources of income, while rising costs in the public sector tend to be offset by public appropriations.

Solutions: What the Private Institutions Should Do

In general, the presidents saw no adequate or lasting solutions that lie within the initiative of the institutions themselves. They have all been through the exercise of budgetary belt-tightening and are at the point where further tightening may impair distinctiveness and quality which are the main attributes of private institutions. All have tried earnestly to expand non-tuition sources of income. However, several mentioned three possible ways of improving matters, not as solutions but as palliatives. These were: interinstitutional cooperation, improved management and diversified markets.

Some policies designed to strengthen the private institutions . . . may take us into the realm of interinstitutional cooperation. We have several specific instances of proposals . . . here, and have every intention of pursuing them. However, there are some instances where the interinstitutional relationships have been anything but cooperative. In fact, I think one could easily cite examples of increased cost, if not in dollars at least in the . . . time of key people . . . .

* * * *

The private universities must manage themselves more effectively. Many of the academic institutions of greatest quality have tended to ignore the concept of efficient management. It has now become critical that private universities move to use all their resources in the most effective manner possible. Steps in this direction are already being taken, and I predict that within a five-year period private universities will become models of efficient use of resources.

* * * *

I have been attempting to increase the chances of_____ College's survival . . . by initiating rather drastic changes in its make-up . . . . This has resulted in the development of two major programs in addition to the Liberal Arts College, one a professional program and the other designed for non-traditional students. I make no attempt to hide or apologize for the pragmatic approach to these two sectors of our operation or to hide their (favorable) financial effects upon our Liberal Arts program . . . . However, if all private colleges assumed this same

stance we would not have a long-range solution to the national dilemma of the small private college.

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We are having great success with our individualized off-campus M.A. program . . . . However, if every institution were to look to this source, we would find that the services would quickly be oversupplied.

Solutions: What State Governments Should Do

The respondents did not sharply distinguish between the functions of state and federal governments with respect to private higher education. Both were thought to have a role and in general there was a leaning toward diversity of sources of support in the interests of institutional autonomy. Also, though a few presidents referred to the possibility of institutional grants, the great majority would prefer public aid via students. One president expressed the matter as follows:

I am quite concerned about a total monopoly of higher education by government units. If we become dependent . . . upon a single tax base source, then we are indeed a public institution in the sense of our source of income . . . . This condition can be created by a relatively small fraction of a college's budget because so many colleges have no margin left. Thus, I feel very strongly that support for the independent sector of higher education should come via the student. The states and/or the federal government should make available to those students who need it monies to attend any college they choose to attend, somewhat in the manner of the G. I. Bill. Even under those conditions we should be very careful not to let the governments limit for the recipients of this assistance a particular kind of "training" or "special education" in the interests of society. We should let . . . the wisdom of the colleges, and the free choice of the students respond to society's needs, and I am sure they will.

Many of the respondents singled o t the tuition gap as the major problem, and suggested some form of tuition grants from the states to students of private colleges as the most practicable policy.

The closing of the tuition gap is hardly a new idea but it would seem to be a factor in assisting private institutions without jeopardizing any of their independence, if it is done by supplying the student with a stipend when he attends a private school. The tuition gap varies widely from state to state, but I am chiefly concerned about the middle-income group which does not qualify for assistance through need factors that tie in with low family income.

* * * *

As one specific remedy at the State level, I propose heavily funded student grant p[illegible]ams, reducing . . . the tuition differential between public and private institutions.

* * * *

I have proposed that there be established in the State of_____ a basic grant for every student attending a private college. I think this should probably be $750 and then should range upward to possibly $1,500 based on an evaluation of the PSC form. This would not completely equalize the opportunity between the public and private sectors but would go a long way toward alleviating the present discrepancy.

* * * *

My own preference is to treat the tuition as a price, and to compensate by direct grants to students to maintain an equitable system for financing education. I recognize, however, that this system is not politically plausible to most politicians. I have, therefore, been moving toward a system in which the state or the federal government would establish two-valued scholarships, where the scholarship would be of greater value if used at a private institution. The requirement for the scholarship must be that it is given in advance of the decision-making period of the student.

Some respondents also recommended other forms of aid to students, including state achievement scholarships, grants to students based on need, etc. A few hinted at the desirability of higher tuitions in public institutions, but tended to dismiss this as politically infeasible. Several, however, thought that circumstances would in fact force public tuitions upward in the years ahead and that this would help in narrowing the tuition gap.

One president uttered a warning about state grants to students, which are now being widely advocated:

The only alternatives I know are to put public monies at our disposal, either through grants to institutions or grants to students. It appears to my eye that any consensus or enthusiasm about institutional grants has passed. It appears to me also that grants to students, as a means of "equalizing" tuition or otherwise assuring choice and access by students needs deeper analysis to discover the long-range implications and consequences. Public policies entered into in such massive proportions as these entitlements and grants seem to require, often carry significant, unanticipated side effects.

One possible side effect to which this president might be alluding is a potential increase in the power of students over institutions if a large part of institutional income were derived from students.

Several respondents referred to the need for better planning by the states to avoid wasteful duplication of services, often involving needless hardship to private institutions. Several also suggested expansion of state contracting with private institutions for services that might otherwise have to be provided by the public sector.

State planning for higher education should, at a minimum, contemplate the total resources of higher education in the state when decisions are made to locate new institutions, expand old ones, adopt new degree programs, etc.

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An essential part of any policy will have to be effective state control of the public sector to prevent it from gobbling up a greater share of the declining number of students attending private institutions. State governments must effectively prevent needless expansion both geographically and programmatically.

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Adopt legislative state planning that would prevent unnecessary and wasteful duplication and competition between public and private institutions.

* * * *

Adopt a system whereby states might contract with private institutions to provide educational programs rather than continuing to expand programming under public auspices.

Finally, several mentioned the tendency for state and local governments to impair historic exemption from taxes on property, sales, licenses, etc.

In our area we have been harassed constantly by local governments for payments in lieu of taxes. The state long ago conferred by statute exemption from local property taxes for non-profit educational institutions but the financial woes of cities and towns has led to a very significant aggressiveness in their dealings with the universities. Large cities frequently place obstacles in the way of accomplishing anything which requires city permission unless some kind of payments are agreed to.

Solutions: What the Federal Government Should Do

The respondents made several suggestions for improvement of the federal posture toward private higher education. The most consistent theme was disappointment with federal student aid programs which have been of limited use to students in private colleges. Many of the responding presidents advocated an evolution of the Basic Educational Opportunity Grant program into something that will be of help to the middle class and that will have realistic funding for students in private institutions.

The voucher concept appeals to me. I should think it could be developed from BEOG program without too much difficulty.

* * * *

We need a Federal student grant program that will provide assistance to middle income as well as low income families and that will provide incentives for states to enlarge their student grant programs.

* * * *

Experience on our individual campuses and an ACE study released last summer proved that the BEOG program works as a deterrent for students who are considering private colleges.

Equal unanimity was expressed regarding possible changes in the income and estate tax laws that would weaken the incentive to private giving to higher education.

Preservation of a favorable tax climate for donors is the most important single factor in the long run. *Without this we cannot strengthen ourselves for the future.*

* * * *

The Federal government properly is always trying to close the loopholes . . . in the Federal tax laws, and in doing so threatens to forget the importance of gifts and bequests to private charitable institutions . . . . Rather than put obstacles in the way of our getting private gifts and bequests, I would like to see the Federal government work out some kind of program which maintains and extends tax incentives for gifts and bequests.

Some recent thinking in Washington and elsewhere has been that a larger share of the costs of higher education could be met through student loans. The respondents recognized the place of credit in the total financial system, but had reservations about its use as a principal source.

I believe it is important that [additional] aid be an outright grant rather than a loan because students have presently reached a point where they cannot tolerate additional loans.

* * * *

Make better arrangements on both the Federal and state levels for loan funds to students . . . . The Federal government is following policies that make students pay a greater proportion of their college costs, and I think the least the Federal government could do is make loan funds more readily available.

Many respondents suggested that an important function of the federal government is to provide incentives to the states to give assistance to private higher education. One especially significant suggestion would overcome tendencies in state programs to limit private colleges to in-state students.

I recommend a federal student grant program . . . that will provide incentives for states to enlarge their own student grant programs. There is a great risk that state *support of private higher education will take forms that encourage private colleges and universities to recruit students from their own states . . . . One of the strengths of American higher education . . . is that individuals have been encouraged to find*

the best school for them, whether it be in the same state or in another state. Also . . . students learn a great deal from studying with others who come from quite different backgrounds, and geography is important as a differentiating characteristic . . . . I wonder if some kind of federal recognition of this problem, and incentive to correct it, like that accorded when unemployment compensation laws were made uniform, might not be helpful. Otherwise I worry greatly about a kind of "balkanization" of higher education.

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The Federal government could set a base amount for the closure of the tuition gap . . . and then the states themselves could supply additional monies to come into line with the particular gap between public and private tuition in each individual state.

Several suggestions, each expressed by only one president, are deserving of mention:

Restoration of support for graduate students, graduate programs, and research

Grants to institutions along the lines of the Bundy program in New York but available nationwide

A federal institutional aid program that would provide at least modest per capita grants

Explicit continuing support via block grants of institutions having concentrations of talent and quality

Strengthening of the U. S. Office of Education, perhaps by dividing HEW

Forgiveness of capital indebtedness to the federal government according to a reasonable formula and/or modification of restrictions on the use of buildings subject to such indebtedness

Institutional aid to medical schools.

The Question of Autonomy

Many of the presidents felt that private higher education faces a dilemma because, on the one hand, it cannot survive without public financial support and, on the other hand, public support may lead to a degree of public control that is inconsistent with the independence which is the *raison d'être* of the private sector. For this reason, most looked with some skepticism on institutional grants and preferred grants to students. Most felt on balance—with some misgivings, to be sure—that, with appropriate forms of aid and with forbearance on the part of government, independence and public support were not mutually incompatible.

Affirmative public policies—local, state and federal—are needed to endorse, encourage, enhance, perhaps ensure, the operational and

intellectual independence of private institutions (but also public ones). The affirmative recognition of the social value of institutional independence may be necessary rather than a succession of rear-guard defensive actions to protect the independence from the increasing array of dangers.

* * * *

There is a generally unspoken ambivalence we all seem to have about maintaining independence and at the same time accepting public monies . . . . So far, there has been a lack of candor and realism in such discussions which make the arguments less than compelling, and result in a diffuse and generally incoherent approach to governmental authorities.

* * * *

I have vigorously opposed over the years government grants to private institutions for inevitably these institutions then become part of the government monopoly . . . . the only solution I have seen is that of providing full educational opportunity by government grants to the individual students rather than government grants to the institutions. In this way institutional competition based on educational performance is preserved.

Conclusions

The following two excerpts from presidential responses provide fitting conclusions to this appendix:

I would guess that we will make a mistake if we try to find one, single, massive solution to the financial problems of the institutions in the private sector. I have an intuitive sense that if we can maintain a number of rather smaller, incrementally important, support programs, we can respond better to the various emphases and approaches of our private institutions and they will have more room for the play of initiative and the exercise of independence.

* * * *

I feel strongly that the new characteristics of the world condition enhance the need for trained intelligence of all kinds and consequently increase the burdens and opportunities of higher education, private and public. Problems of population, food, energy, environment, mental health and all the rest may call for moral incentives, cultural adaptations, and Divine intervention, but they also call for the maximum, optimum use of the human mind, and that bears heavily on the nature of policies that will be wise for private education.

79

[1] Text of Letter to Presidents:

April 22, 1974

Dear

This letter is to ask your advice. I am sending similar letters to several friends located in various types of institutions.

I have been giving a fair amount of time and thought in the past year to the question of the future of private higher education. I have been working on my own and also as a member of a task force of the National Council of Independent Colleges and Universities (which is an arm of Association of American Colleges).

My hope, which may be overly ambitious, is that somehow coherent national policies for private higher education may be developed which will have the support of many educators and which can be vigorously advocated in the Congress and in state legislatures.

I am operating under the following assumptions: (a) that the private sector is an indispensable part of the American system of higher education, (b) that this sector—with some exceptions—is in jeopardy, and (c) that coherent policies designed to strengthen the private colleges and universities (without sacrificing their independence) are needed.

My request is that you respond indicating your views as to whether the above assumptions are valid and as to what specifically (if anything) should be done at either the state or federal level to improve the position of the private colleges and universities. I don't expect a lengthy discussion but merely a listing of the measures you think might be useful. After I receive your letter, I might call you in case I have questions or need elaboration.

I might have sent you a questionnaire instead of this letter. I decided against it because I want to hear what is on your mind rather than to have your reactions on what is on my mind.